

IN THE MATTER OF A BOARD OF INQUIRY

under the

HUMAN RIGHTS CODE, 1981
Statutes of Ontario, 1981, Chapter 53, as amended

BETWEEN:

SUZANNE DUFOUR, JACQUES CHARRON AND DIANE DEMERS
Complainants

- and -

J. ROGER DESCHAMPS COMPTABLE AGREE, SES SERVITEURS ET AGENTS, ET
DENISE DESCHAMPS

Respondents

Board of Inquiry: Bernard Adell

Hearing: Ottawa, Ontario, May 9 and 10, June 6, 7 and 8,
August 8, 9, 10, and 11, 1988

Counsel for the Ontario Human Rights Commission:
M. Martha Coady

Counsel for the Respondents:
Hugh Fraser

DECISION OF BOARD OF INQUIRY

I. INTRODUCTION

These complaints raise the question of how far an employer may bring religion into the workplace without violating the right of employees under Part I of the Ontario Human Rights Code, 1981, to be free of religious harassment and religious discrimination.

According to s. 4(1) of the Code, everyone "has a right to equal treatment with respect to employment without discrimination because of... creed...." Section 4(2) provides that every employee "has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of...creed..., " or religion. "Harassment" is defined in s. 9(f) as "engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome...." The respondents in this case are clearly not a religious institution or organization primarily serving the interests of people of a particular religion, and thus do not come within the limited exemption given to such entities by s. 23 of the Code.

The three complainants were employed by the chartered accountancy firm of J. Roger Deschamps, Comptable Agréé, for various periods between early 1982 and late 1983. Roger Deschamps was the founder of that firm and its sole or principal owner throughout the periods in question and at the time of the hearing. Denise Deschamps, his spouse, was the office manager of

the firm at all relevant times. In written complaints dated November 15, 1983, in the case of Suzanne Dufour, and November 23, 1983, in the case of Jacques Charron and Diane Demers, the complainants alleged that Mrs. Deschamps harassed them in the workplace on the ground of creed, and that the respondents discriminated against them in respect of their employment on the ground of creed, in breach of ss. 4(2) and 4(1) of the Code. The three complaints were combined and heard together, as permitted by s. 31(3) of the Code. In their testimony, the complainants alleged that the harassment and discrimination to which they were subjected by the respondents led to the loss of their jobs and to considerable mental anguish.

The hearing of these complaints took nine days, and fifteen witnesses testified. I will review the testimony of each of the witnesses whose evidence I have found pertinent, and I will then assess the merits of the complaints.

II. THE EVIDENCE

Suzanne Dufour

After having had several years experience in secretarial and other work, Ms. Dufour began to work for the Deschamps' firm on February 22, 1982, when she was 33 years old. At her pre-employment interview, she said, Denise Deschamps told her that the Deschamps were Christians and that the atmosphere in the firm was a Christian atmosphere. Ms. Dufour, a Roman Catholic, replied to the effect that she too was Christian; she thought that Mrs. Deschamps was using the term "Christian" in its usual sense, to include all Christians.

Ms. Dufour's duties with the Deschamps were those of a receptionist and secretary. For most of her period of employment, she was the only full-time secretary in the office, among the ten or so full-time employees. As most of the others spent much of their workdays at clients' premises, Ms. Dufour, she said, was around the office more than any of the other employees. A part-time secretary, Lisette Carrière, would come in for one or two days a week, particularly toward the end of each month when the workload was heavier. As in other accounting offices, there were major seasonal fluctuations in the workload, which was particularly heavy during the months prior to the April 30 income tax deadline. In return for having to work on Saturday mornings during the tax season, employees were allowed to take Friday afternoons off during July and August.

The Deschamps' office had a small lunchroom. On the wall in that room were posters with prayers on them. According to Ms.

Dufour, Mrs. Deschamps told the employees that they could recite those prayers if they wished. There were also a few other posters with prayers around the office, and small stickers on the adding machines and typewriters. One of these stickers said, "Have a beautiful day... God made it." Another one, according to Ms. Dufour, said "Praise the Lord." Ms. Dufour removed such stickers from her machines at one point, she testified, but someone (she was not sure who) replaced them when she was not looking.

Ms. Dufour testified that during the morning coffee break, the employees would quite often discuss what they had done on the weekend or the evening before. One of her co-workers, Gilles Bastian, liked to read horoscopes from the newspaper and to make jokes about them with other employees. Mrs. Deschamps disapproved of this, Ms. Dufour said, on the basis that it was not Christian but had to do with the devil. The horoscope jokes therefore abated, and resumed when the Deschamps stopped having lunch with their employees in March 1983.

In September of 1982, Ms. Dufour separated from her husband and rented an apartment of her own. Shortly afterward, she received a rape threat. She told Mrs. Deschamps about it because, she said, she was very frightened, she had no relatives in the Ottawa area, and she thought Mrs. Deschamps could give her good advice about what to do. Mrs. Deschamps invited Ms. Dufour to stay with the Deschamps family for a while, for her safety.

Ms. Dufour ended up living with the Deschamps from October 1982 until February or early March of 1983, at little or no cost

to her. The Deschamps were kind to her for nearly all of that time, she acknowledged, treating her almost as a member of the family. In particular, Ms. Dufour said, Mrs. Deschamps was very solicitous about her migraine headaches, insisting that she go home early when they occurred.

The Deschamps, who had formerly been Roman Catholics, had joined a Pentecostal congregation called the Life Centre in 1981. They regularly went to Sunday services at the Life Centre, with their children. When Ms. Dufour began to live with the Deschamps, Mrs. Deschamps invited her to go with them to those services, and Ms. Dufour did so once or twice.

When she first moved in with the Deschamps, Ms. Dufour was not seeing her estranged husband at all. In December 1982 she began to spend weekends with him at his home, with a view to a possible reconciliation. When she began to do that, she said, her relationship with the Deschamps became cooler. According to Ms. Dufour, Mrs. Deschamps suggested to her that her husband, who was a Baptist, had undue powers over her and was somehow linked with the devil. In addition, Ms. Deschamps made it clear that Ms. Dufour would no longer be welcome to stay with the Deschamps, as she thought it was not good for their children to see a separated woman spending weekends with her husband. At the office, Ms. Dufour said, Mrs. Deschamps became much less sympathetic about Ms. Dufour's migraine headaches. Rather than urging her, as before, to go home and rest, Mrs. Deschamps would assert, according to Ms. Dufour, that such headaches were not normal and were probably due to personal problems or to the

devil. Ms. Dufour said that Mrs. Deschamps recommended group prayer sessions to cure her migraines, and that one such session was in fact held for her in the office board room.

Ms. Dufour testified that Mrs. Deschamps was very concerned about bibles, and insisted on giving her one to replace her old Roman Catholic bible. According to Ms. Dufour, Mrs. Deschamps claimed that only born-again Christians would be saved in the afterlife. Ms. Dufour questioned her on such matters, claiming not to understand why, if she prayed to the same God, she too could not be saved even if she belonged to a different church.

Ms. Dufour testified that Mrs. Deschamps' comments on religion in general, and on Ms. Dufour's religion in particular, became more frequent and more pointed after Ms. Dufour moved out of the Deschamps' house in February or March of 1983 -- that Mrs. Deschamps would assert that Roman Catholics were not true Christians, and would urge Ms. Dufour to watch certain telecasts in order to learn more about true Christianity. Ms. Dufour's response, she said, was to make it plain to Mrs. Deschamps that she wanted to remain a Catholic. According to Ms. Dufour, Mrs. Deschamps then increased her workload by making less use of the part-time secretary, Lisette Carrière, who had been coming in to help her.

Ms. Dufour testified that Mrs. Deschamps initiated almost all of the many discussions which they had about religion. Ms. Dufour said that the only times she raised the matter were after Mrs. Deschamps had specifically recommended miracles as a means of curing Ms. Dufour's ailments. Every other time,

Ms. Dufour insisted, it was Mrs. Deschamps who started talking about religion.

Early in March 1983, Ms. Dufour told Mrs. Deschamps that she might need two weeks off for thyroid surgery. Mrs. Deschamps replied that she could not have the time off at that point, so Ms. Dufour decided not to pursue the matter. (She finally had that surgery in 1984, she said.) Ms. Dufour testified that Mrs. Deschamps, in rejecting that request for time off, told her that she should pray for a miracle to cure her, and that Mrs. Deschamps continued to insist repeatedly, even daily, that prayer was the answer to her health problems. In fact, according to Ms. Dufour, virtually all of her discussions with Mrs. Deschamps were punctuated by Mrs. Deschamps' interventions with respect to religion.

Ms. Dufour testified that in November or December of 1982, Mrs. Deschamps called all of the employees together in the board room, said some prayers, told them that from then on the Deschamps would conduct prayer sessions each morning in the board room, and invited them all to come. None of the employees responded negatively in the presence of the Deschamps, but began joking among themselves about the matter immediately afterwards. Jacques Charron, Ms. Dufour testified, was the one employee who, upon leaving the board room on that occasion, made negative comments that Mrs. Deschamps could not avoid hearing. He said, very loudly, that he had better things to do, that he was a Catholic, and that he did not believe in miracles. From that point on, Ms. Dufour testified, Mrs. Deschamps' treatment of

Mr. Charron deteriorated. She would make remarks to Ms. Dufour about his lack of punctuality and neatness and his bad handwriting, although, according to Ms. Dufour, Mrs. Deschamps had never before said anything unfavourable about him.

After Mrs. Deschamps had invited the firm's employees to morning prayer sessions, Ms. Dufour testified, they decided more or less as a group that they would not attend. When Mrs. Deschamps asked her later why she was not coming to those sessions, her response, she said, was that the employees had decided not to go. She did attend one such session, she said, and she testified that Jacques Alexanian, an accounting student who was a Baptist, was also there.

Ms. Dufour recounted an incident in which Mrs. Deschamps again called the employees together, for two purposes. First, she told them that Charles Landreville had become a partner in the firm. Second, she urged that each employee contribute \$2.00 a month so that the firm could participate in a foster parents' plan which a minister in the Deschamps' church, Bill Pranker, was arranging for children in India. According to Ms. Dufour, the employees felt pressure to contribute the requested amount. None of them said anything at the meeting, but on the way out Jacques Charron said loudly, "That's just cost me another pack of cigarettes." After that incident, according to Ms. Dufour, Mrs. Deschamps told her that it was not nice of Mr. Charron to have made that remark, and that he was not a competent enough employee to talk like that.

As for Diane Demers, Ms. Dufour testified that Mrs.

Deschamps several times said things to her that were critical of Ms. Demers. One was that Ms. Demers was not sufficiently concerned with the bible and with religious matters in general. According to Ms. Dufour, Mrs. Deschamps told her that she was not happy to be with people who did not want to read the bible, that it was unfortunate that she could not have a Christian staff, and that it was her prayer to have such a staff. Ms. Dufour also testified that Mrs. Deschamps asked Mr. Landreville to check Ms. Demers' work closely because she doubted Ms. Demers' competence. Although Ms. Dufour was the person who opened the mail and received incoming telephone calls, she said that she never noticed any complaints from clients about Ms. Demers' work.

Ms. Dufour testified further that Mrs. Deschamps would comment, on occasion, about how well Ms. Demers was dressed, and would suggest that Ms. Demers must have other employment in order to be able to afford such expensive clothes. In addition, according to Ms. Dufour, Mrs. Deschamps suggested that Ms. Demers might be having personal relationships with clients.

Ms. Dufour gave a good deal of evidence about remarks and general attitudes of Mrs. Deschamps concerning certain other employees whose period of employment with the firm overlapped with hers. One was Thanh Vo, who resigned during the 1982 income tax season. Ms. Dufour testified that Mrs. Deschamps was angry about Ms. Vo's resignation, and said to Ms. Dufour that Ms. Vo, as a Buddhist, had no religion, and that it was just as well to be rid of her. Also, Ms. Dufour said, she heard Mrs. Deschamps comment on the Catholicism of another employee, André Lafleur.

As for Jacques Alexanian, Ms. Dufour claimed that in certain respects he was better treated than other employees because his religion was close to that of the Deschamps.

In the spring of 1983, Ms. Dufour testified, relations between her and Mrs. Deschamps became worse and worse. According to Ms. Dufour, Mrs. Deschamps continued to be critical of Ms. Dufour's husband, with whom she was attempting a reconciliation. Mrs. Deschamps probed far into her private life during their conversations in the office, Ms. Dufour said, and brought her religious books and records to help end what Mrs. Deschamps saw as her oppression by the devil. Ms. Dufour claimed that she made no use of those books and records, but in fact burned them. In addition to being bothered by those overtures from Mrs. Deschamps, Ms. Dufour said that she was also bothered by a little sign in the lunchroom which read, "Remember when you're in the furnace, God has his hand on the thermostat."

In response to questions from counsel for the Commission, Ms. Dufour testified that Mrs. Deschamps asserted that all Catholics would go to hell, and expressly told Ms. Dufour that she ought to convert to Mrs. Deschamps' religion. Ms. Dufour also claimed that during the latter part of her period of employment, when it became clear to Mrs. Deschamps that Ms. Dufour was not interested in what she had to say about religion, Mrs. Deschamps in effect ostracized her, by cutting off the extensive personal communication which had taken place between them and talking to her only to the extent necessary for business purposes.

In June 1983, Ms. Dufour decided to quit as a full-time employee because, she said, she could no longer take the hostile atmosphere every day. She gave notice in June 1983 that she was resigning as of September 15. However, she said, she was willing to work part-time for the Deschamps after that date, because she thought that she could cope on a part-time basis. According to Ms. Dufour, Mrs. Deschamps agreed in June that such a part-time arrangement would begin in September. Ms. Dufour said that she offered to train her successor.

The Deschamps then hired a very young woman, Ann St.-Denis, who began work in June and was to be trained by Ms. Dufour to succeed her. Ms. St.-Denis was a Roman Catholic and was known as such to Mrs. Deschamps. A couple of weeks later, Ms. Dufour said, Lynn Constantineau, who had been the secretary at the Life Centre and who was a member of that church, was laid off by the Life Centre and began to look for work. Mrs. Deschamps had Ms. Constantineau come to the office to be trained in word processing by Ms. Dufour. Mrs. Deschamps made it quite clear to her, Ms. Dufour said, that she was going to let Ms. St.-Denis go in order to make room for Ms. Constantineau. Soon afterward, Mrs. Deschamps dismissed Ms. St.-Denis and brought in Ms. Constantineau on a full-time basis. According to Ms. Dufour, the only reason why Mrs. Deschamps could have preferred Ms. Constantineau to Ms. St.-Denis was her religion, because Ms. St.-Denis's work had been very good and her French was better than Ms. Constantineau's.

On September 14, when Ms. Dufour received her last paycheque

from the Deschamps, she had an argument with Mrs. Deschamps about certain deductions of more than \$500.00 from her pay. This disagreement added to the tension between them, and they parted on bad terms.

Ms. Dufour's part-time arrangement was supposed to begin on September 15. However, she testified that she was not called in for any work until September 29. When she arrived on that day, she said, no one gave her any work or even spoke to her, so she sat around for a few hours and finally left, never to return. She thought that she had thereby resigned. "I resigned", she testified, "because I knew I was not wanted there". Nevertheless, she received a letter of dismissal dated October 17, 1983, from Roger Deschamps.

According to Ms. Dufour, what she went through at the Deschamps' firm left her in bad health for some six months after her departure. During that period, she said, she could not work, she found it hard to sleep, she needed medical attention and medication, and she rarely spoke to anyone. No other evidence was adduced in support of her testimony to that effect, or on the link between her health and her treatment by the Deschamps.

In February 1984, Ms. Dufour began to work for a notary. She had been steadily employed since then, having done very well in her current position with the Government of Canada. However, she claimed, the adverse effects of her experiences at the Deschamps stayed with her for about two years, during which period she found it impossible to have normal relations with her co-workers.

In cross-examination, Ms. Dufour acknowledged that until March 1983, she was treated very well by the Deschamps, personally and with respect to her work. She also admitted that in addition to making the \$2.00 contribution which Mrs. Deschamps solicited for Bill Prankerd's foster child program, she contributed a larger amount to sponsor a child on her own through that program. A 1983 income tax receipt adduced by counsel for the respondents, from the Bill Prankerd Evangelistic Association, indicated that Ms. Dufour donated a total of \$225.00 to that organization in that year. That receipt does not mention any program for supporting children, but expresses thanks for "your donation to be used to spread the gospel". Ms. Dufour testified that she felt her larger contribution to be a personal one designed to help a child, but that the \$2.00 contribution solicited by Mrs. Deschamps from all of the firm's employees was not truly voluntary.

Ms. Dufour also admitted in cross-examination that until about February 1983, Mrs. Deschamps, though she was overtly religious and talked a lot about her religious beliefs, did not give the firm's employees a particularly hard time on the matter. The situation worsened, Ms. Dufour said, in February or early March of 1983. According to her, the only employee not adversely affected by that change of atmosphere was Jacques Alexanian, a fact which she attributed to the compatibility of his religious beliefs with those of the Deschamps. In her own case, she said, it was her request, in early March, for two weeks off for thyroid surgery that seemed to trigger the change in Mrs. Deschamps'

Attitude toward her. Ms. Dufour admitted, though, that Mrs. Deschamps continued to take her into her confidence on some matters even after that -- for example, in May 1983, on Mrs. Deschamps' ^{intention} /to dismiss Ann St.-Denis.

The testimony of several of the witnesses who appeared before me seemed to contain a fair amount of exaggeration and embellishment, and to have been influenced by continuing bitterness toward one side or the other. Ms. Dufour's testimony, in my view, was more affected by those infirmities than that of most of the other witnesses.

Jacques Charron

Jacques Charron, who was then 33 years old, worked for the Deschamps as an accountant-technician from May 1982 until the end of March 1983. He did a combination of accounting and auditing work, mostly under Mr. Deschamps' supervision but also under Mr. Landreville's. He was also under Mrs. Deschamps' supervision with respect to the assignment of files and other administrative matters. Mr. Charron had no professional accounting qualification, but had taken accounting courses at university and had several years' accounting experience.

At the start, Mr. Charron said, Mrs. Deschamps was so welcoming and helpful to him that he felt uncomfortable. Although annual pay increases were not given until November, he received a large increase of \$2,500.00 in September 1982, on his starting salary of \$13,000.00. The reason, he said, was that he had a bill to pay and asked for a \$100.00 advance, and the Deschamps responded by giving him a large and immediate raise.

In the office lunchroom, Mr. Charron testified, employees would never chat about religion when the Deschamps were not there. When they were there, he said, the conversation often turned to religion, usually but not always at Mrs. Deschamps' initiative. He recalled a general invitation being extended by Mrs. Deschamps to all of the employees to attend a prayer session in the office. No one explicitly said no, he testified, but as far as he knew, no one went. No further direct invitations of that sort were given, he said, but only indirect ones. At other times, he said, particularly in the lunchroom, Mrs. Deschamps

spoke very critically of the Catholic religion and of those who adhered to it, although he could recall few of the details of those remarks. He testified that he did not directly object to what Mrs. Deschamps would say about religion, but that at times he tried to convey his displeasure by walking out.

The evidence of Mr. Charron about religious signs and stickers in the office was basically similar to that of Ms. Dufour. The small stickers here and there in the office did not particularly bother him, he said, but he found the somewhat larger posters in the lunchroom annoying.

On occasion, Mr. Charron testified, he was told during working hours to do personal tasks for the Deschamps, such as picking up their children at the Life Centre school, and they asked him once to help paint their house on a weekend, although they paid him for it. He seemed, at least in retrospect, to resent having been treated at times as a sort of errand boy.

Mr. Charron testified to a number of incidents which led to friction between himself and the Deschamps, or which showed the existence of friction. He was reprimanded at least once by Mrs. Deschamps for parking his car in the garage of the building in which the firm's office was located, rather than in the outside parking lot. He once asked Mr. Deschamps to represent to a bank that his (Mr. Charron's) salary was slightly higher than it actually was at the time, so that he could get an adequate mortgage on a house he wanted to buy. Mr. Deschamps refused, apparently after consultation with Mrs. Deschamps.

Another incident involved Mrs. Deschamps' request to all

employees to contribute \$2.00 a month to Bill Frankerd's project involving children in India. That episode, and Mr. Charron's loudly voiced complaint upon leaving the boardroom, have already been recounted. Mr. Charron testified that although he made one \$2.00 contribution, his consent was forced rather than real.

Yet another incident can be called the coffee creamer affair. One afternoon in March 1983, not long before his discharge, Mr. Charron testified that he was asked to go downstairs to a cafeteria to buy a few cups of coffee for people in the office. Because he was in a hurry, he said, he unthinkingly picked up and brought back far more individual containers of cream than were needed. Mrs. Deschamps, he testified, treated that as an act of dishonesty on his part, reprimanding him for it and going down to the cafeteria herself to offer to pay for the extra creamers. According to Mr. Charron, she gave him a religiously-oriented scolding, to which he responded by telling her that born-again Pentecostals were "brainwashers". That comment, he said, infuriated her and led to a short but sharp argument. Mr. Charron testified that the affair upset him so much that he had to take a day off work, as unpaid holiday time.

Only a day or two later, after the other employees had left for the day, Mr. and Mrs. Deschamps called Mr. Charron into Mr. Deschamps' office and told him that he was being dismissed. His attitude was given as a reason, he said. According to Mr. Charron, Mr. Deschamps told him, "Jacques, you have your principles and we have ours". Mr. Charron testified that he took

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this to refer to the differences in their religious beliefs. In response to questions from the respondents' counsel, Mr. Charron said that the discussion, which lasted at least a half hour, was largely about religion. Practically nothing, he claimed, was said about his job performance or about any failure to follow office rules. He insisted that that was true even after being confronted with his Record of Employment form, on which the Deschamps stated that he was fired because he "works too slowly to produce a profit on the basis of an hourly rate" (my translation). Nor, he said, did he receive any earlier notice of shortcomings in his work, other than normal instructions and corrections -- at least until the last month of his employment, when Mr. Deschamps began to complain about his coming to work late, without making any allowance for all of the unpaid overtime which he claimed to have worked.

A week after his dismissal, when he came back to pick up certain things, Mr. Charron said that Mrs. Deschamps insisted on meeting him downstairs rather than letting him come up to the office, and that she gave him a bible and told him that he had great need of it.

Mr. Charron testified that for three to four years after being fired by the Deschamps, he was in a state of demoralization. For about six months he felt unable to work at all. Then he took low-paying jobs unrelated to his training and experience -- construction work and bakery work -- in order, he said, to get off unemployment insurance. He was quite sure that he was suffering from depression, but he did not seek

professional help, as he felt that he had to overcome the problem himself. Although he was separated from his wife in 1984 and divorced in 1986, he testified that it was his problems with the Deschamps that caused him to be too depressed to resume work in the accounting field. Only a couple of weeks before the beginning of the hearing did he again take employment in that field.

I think Mr. Charron, on the whole, tried to tell the truth, and most of his factual testimony seemed reliable. However, I do not accept his account of the reasons which the Deschamps gave him for dismissing him, and I was troubled by the fact that he seemed to place undue emphasis on insignificant events, such as Mr. Deschamps' request that he act as a witness to an agreement for the sale of a house. Also, I was not very comfortable with his testimony about how much impact Mrs. Deschamps' various exhortations had on him, except for the coffee creamer incident and the gratuitous personal comments that she made to him at the time of his discharge and shortly afterward.

Diane Demers

Diane Demers, who became a Certified General Accountant in 1987, graduated from university in 1982, at the age of 21. In May of that year, she was hired by the Deschamps as a junior accountant. It was her first full-time job, and it was understood that she would study for her professional qualification at the same time.

During her pre-employment interview, Ms. Demers testified, Denise Deschamps mentioned that "We're Christians". Ms. Demers offered no particular response, she said, because she was a Roman Catholic and she thought Mrs. Deschamps was telling her that the Deschamps were also Catholics.

During the 17 months of her employment with the Deschamps, Ms. Demers worked mainly under the supervision of Charles Landreville. Most of her work was done outside the office, at clients' premises. The ambience was very pleasant, she said, among the auditing team with whom she usually worked -- Charles Landreville, Gilles Bastien, André Lafleur, Jacques Alexanian, and Jacques Charron. Much of their time from May to August, in 1982 and again in 1983, was spent doing an audit at the offices of a large client, the Assaly corporation.

One day toward the end of the 1982 Assaly audit, to Mrs. Deschamps' knowledge, flowers were sent to Ms. Demers, at the Deschamps' office, by an Assaly employee who wanted her to go out with him. She testified that she immediately told that person that she would not have a social relationship with him because of the danger of a conflict of interest. That was in

August 1982, and the Deschamps, Ms. Demers said, did not mention the matter to her until her annual evaluation interview in November of that year, when they cited it as the main reason why she was receiving only a \$500.00 salary increase instead of the normal \$1,000.00, and refused to listen to her explanation of what she had done to avoid a conflict of interest. That was the first criticism her superiors had offered her on any matter related to her work, Ms. Demers testified, other than the sort of correction normally given to a student.

At the time of Ms. Demers' interview in November 1982, the Deschamps had available to them a detailed written evaluation of her performance. That evaluation, dated November 16, had been prepared by Mr. Landreville on a form which he had used in the past. It appears neither to have been shown to Ms. Demers nor to have been gone over with her during the interview, and her evidence is that she was unaware of it until the hearing.

The tenor of that written evaluation was lukewarm at best. Mr. Landreville graded Ms. Demers' performance on 18 listed items, giving her no grades of "excellent", ten of "good", eight of "adequate", and none of "unsatisfactory". Comments, generally quite critical in tone, were written in after most of the "adequate" grades. Further comments, again mostly critical, were written in at the end by Roger Deschamps, with the new salary figure of \$14,000. Ms. Demers' testimony is that she was not given a clue, either by Mr. Landreville or by the Deschamps, that their opinion of her performance was so low.

Although Ms. Demers admittedly spent a relatively small part

of her time at the Deschamps' office, she testified that there were religious stickers around the office, and that no matter what was being talked about at any particular time in the office lunchroom, Mrs. Deschamps would steer the conversation toward religion. When Mr. Fraser asked Ms. Demers in cross-examination if she or any other employee indicated to Mrs. Deschamps that they did not want to discuss religion, she replied (my translation):

Sir, when it's your employer, you don't tell her not to talk in her own office. You listen and you don't insist.

Mrs. Deschamps, according to Ms. Demers, gave various invitations of a religious sort to employees: to attend the morning prayer sessions in the office board room, to go to services at the Life Centre, and to watch a religious television program called 100 Huntley Street. Ms. Demers acknowledged that these were put only in the form of invitations or suggestions, none of which she accepted, but she testified that they took on a different character because of their frequency and the fact that they came from the employer. Mrs. Deschamps, she said, seemed quite disappointed when very few employees took up the invitation to attend Life Centre services. When Mrs. Deschamps asked for donations for Bill Pranker's program for children in India, Ms. Demers testified that she felt strong pressure to contribute.

For a good part of her period of employment with the Deschamps, Ms. Demers shared an office with Jacques Alexanian. She testified that on occasion, Mrs. Deschamps would come into the office and have discussions with Mr. Alexanian about biblical

passages.

Shortly before Christmas 1982, the Deschamps offered to let Gilles Bastien and his family use their ski chalet north of Ottawa over the Christmas holidays. Ms. Demers was a ski instructor, and Mr. Bastien apparently invited her to join them at the Deschamps' chalet in order to teach them how to ski. Ms. Demers testified that when Mrs. Deschamps learned of those plans, she severely rebuked Ms. Demers, in private, for being too friendly with a married man. According to Ms. Demers, that was one of several times when Mrs. Deschamps told her that she was in danger of going to hell for various reasons: for being Catholic, for taking an occasional drink, for dancing, and for associating with married men.

The religious element, Ms. Demers testified, was not merely implicit in those allegations and warnings from Mrs. Deschamps, but was quite explicit. Because she tried to live up to the standards of her own religion, Ms. Demers said, she was greatly hurt by Mrs. Deschamps' imputations about her behaviour and by the religious context in which Mrs. Deschamps placed those imputations. She cried at length, she said, and became very nervous and withdrawn at the office, to the point where she had to force herself to go to work.

In November 1982, Mrs. Deschamps gave Ms. Demers a bible for a birthday present, and according to Ms. Demers, Mrs. Deschamps subsequently asked her several times if she was reading it. After Christmas 1982, Ms. Demers said, Mrs. Deschamps became cold toward her, and would wonder aloud what she was doing in the

evenings to make her so tired at work. In addition, she testified, Mrs. Deschamps would more and more often do such things as criticize Roman Catholic prayer practices and make disparaging comments about the religion of one of Ms. Demers' relatives.

According to Ms. Demers, in May 1983, when the annual Assaly audit was about to begin, Mrs. Deschamps told her that she would not be sent to the Assaly offices that year, because of the danger of a conflict of interest as shown by her receipt of flowers the year before. For a month or so, while several of the other employees were at Assaly's, Ms. Demers testified that she was largely alone in the office with Mrs. Deschamps, who often made religious overtures to her. In particular, she said, Mrs. Deschamps gave her a copy of a document, introduced in evidence, recounting someone's claim to have benefitted from miracles as a result of a religious conversion induced by the 100 Huntley Street television program, and told her that that document would help her understand the Deschamps' religion and how to convert to it. Ms. Demers insisted that she in no way invited such overtures from Mrs. Deschamps, and did no more than ask Mrs. Deschamps occasionally to explain some of her assertions about religion.

In June 1983, Ms. Demers was sent out to join the Assaly audit team. In August, when that audit ended, she was again in the Deschamps' office on a regular basis, she said. Mrs. Deschamps, according to Ms. Demers, then resumed her persistent comments on how Ms. Demers' personal life fell short of

Mrs. Deschamps' religious standards, and began criticizing her more and more with respect to such matters as coffee breaks and personal telephone calls. This began to affect her emotionally and physically, Ms. Demers said, leading to digestive problems and skin problems. This was supported in part by a medical report indicating that she was suffering from nervous dyspepsia, insomnia and anxiety. The departure of Gilles Bastien in July and Suzanne Dufour in September also left her feeling very much alone, she acknowledged.

In early October 1983, Mrs. Deschamps had a long interview with Ms. Demers, and told her, according to Ms. Demers, that her work was no longer satisfactory, that she was being put on probation for an indefinite period, and that she would be fired if she did not do better. A couple of weeks later, Ms. Demers said, she decided that she could not take it any longer. She told Mrs. Deschamps that she was resigning, with two weeks' notice.

Mrs. Deschamps in effect accepted her resignation, Ms. Demers said, and did not object to the idea of her working for the two-week notice period. However, once she had given her notice, she testified, she felt emotionally incapable of coming to the office or even of speaking to Mrs. Deschamps, so she had her mother tell Mrs. Deschamps by telephone, on or about October 19, 1983, that she would not be working out her period of notice. A dispute followed about whether or not the Deschamps owed her certain small sums of money -- a matter which, she said, did not really add to her distress because she knew that Mrs. Deschamps

●d had similar minor financial squabbles with other employees at the time of termination.

After Ms. Demers left the Deschamps, she received unemployment insurance payments for about two months, and took an accounting examination in January 1984. At about that time, she was invited by Gilles Bastien to work for the firm that he was working for. She had worked steadily since then, moving to another employer and progressing well in terms of salary and responsibility. She acknowledged that her professional experience with the Deschamps was valuable to her.

The evidence as a whole indicates that Ms. Demers' evidence was not entirely free of misperception or overstatement. Nevertheless, I had the impression that she was able to look back on what happened at the Deschamps with a fair degree of introspection and that she was making a serious effort to give an accurate account of those events and their impact on her.

Charles Landreville

Charles Landreville is a chartered accountant who was hired by the Deschamps firm at the end of January 1982, with the understanding that he would become a partner after a year. From February 1, 1983 until he left in 1985, he was a 20% partner in the firm. At the time of the hearing, he and Mr. Deschamps were engaged in civil litigation against each other, and relations between them were not good. Mr. Landreville was called as a witness by the Commission.

Mr. Landreville testified that Mr. Deschamps was not overtly religious at the office, but that Mrs. Deschamps was, and that Mr. Deschamps went along with her way of running the office. He clearly found Mrs. Deschamps very difficult in some ways. In his words (my translation), "...if you did something that displeased Denise, there would be repercussions.... That's the way things were". She spoke very often of religion, he said, and she would "refer constantly to the religious aspect or to the aspect of God for almost everything". In the lunchroom, he testified, she would take over the conversation, to the point where certain employees felt they had to get away from it. He recalled that there were religious posters in the office, especially in the lunchroom, and religious books and pamphlets in the waiting room. Displayed in the boardroom, he said, was a certificate of "partnership" with the church.

Mr. Landreville could not recall anything being said about religion when he was hired in January 1982, or any invitation to morning prayer sessions. He never heard Mrs. Deschamps

explicitly try to convert anyone, and although he was a practicing Catholic, he did not feel that she brought direct religious pressure to bear on him personally. However, he said that he did once hear her say, in the office, that certain central aspects of Catholic doctrine were false. That did not particularly bother him, he said; he just found it, in his words, "a bit stupid". He added (my translation): "Those remarks didn't appear on my financial statements, so they didn't matter much to me".

All of the accounting employees in the office worked under the supervision of either Mr. Deschamps or Mr. Landreville, and in most cases under the supervision of both of them, although Mr. Deschamps generally had the final say in their supervision and evaluation. Mr. Landreville testified that Jacques Alexanian was the only employee who had no trouble with the Deschamps, although his work, Mr. Landreville said, was no better than that of others. Mr. Landreville acknowledged that he had little contact with Suzanne Dufour, though her work was good when he did ask her to do things. His contact with Jacques Charron was also rather limited, though he recalled it as being satisfactory. Mr. Charron, he said, struck him as not being overly able, as being rather preoccupied with defalcations, but as generally doing specific auditing tasks adequately.

As Mr. Landreville was in charge of the Assaly audit team, he had much more contact with Ms. Demers than with the other two complainants. In his oral testimony, he described Ms. Demers' performance as "average", and as having its "ups and downs" (my

translation). He said that he recalled having no real difficulty with her work. He claimed that he took the following approach as a supervisor (my translation):

If I have a problem with an employee who isn't performing, you know it pretty quickly.... I don't beat around the bush. I recommend firing him, and that's the way I've always dealt with my personnel.... If I had decided, because her work wasn't good, to fire Diane, probably I'd have envisaged going to see Roger and then Denise. I'd have said, "Listen, that's it, she's out".

As is noted above in connection with Ms. Demers' testimony, Mr. Landreville prepared a detailed written evaluation of her performance on November 16, 1982. That evaluation is less favorable than his recollections at the hearing. Although he gave Ms. Demers grades of "good" or "adequate" on all aspects of her performance listed on the evaluation form, his written comments were generally quite critical, and could by no means justify a conclusion that she was not having problems in learning accountancy.

Even more inconsistent with Mr. Landreville's oral testimony on Ms. Demers' performance are two pages of rough notes, in his handwriting, which are headed "Reasons for dismissal" and which were adduced in evidence by the respondents. Although those notes are undated, they appear to have been written quite late in 1983 -- probably at an October 1983 meeting between the Deschamps and Mr. Landreville, when it was decided that Ms. Demers would be given another chance to improve before being fired. The notes, written in English, state that Ms. Demers' performance had not improved for some time, and that her unsteady work had caused problems. They go on as follows:

89 02/16 10:44

Hence we (and I was very much part of the decision) decided to lay her off and try to replace her. Mrs. Deschamps suggested that she had a good talk with her at the term, and to differ [sic] dismissal indefinitely if there was a marked improvement. I advised Mr. & Mrs. Deschamps that it was my opinion that Miss Demers had peaked in her ability to serve us, and, since we had concluded that it was not up to our standards, there was no point in giving her a two week reprieve to find ourselves facing the same situation two weeks later.

There follows a largely illegible, scratched-out sentence which was the subject of a great deal of controversy but which could not appear to affect the thrust of what precedes it--i.e., that Mr. Landreville thought Ms. Demers should be dismissed forthwith for inadequate job performance, and that Mrs. Deschamps in effect recommended otherwise.

Mr. Landreville's evidence, in sum, was marred by inconsistencies between what he said at the hearing about Diane Demers' job performance and what he wrote about it in 1982 and 1983. That fact, and his continuing controversy with Mr. Deschamps, have also led me to approach the rest of his evidence with caution. Nevertheless, what he said about Mrs. Deschamps' behaviour in the office impressed me as generally reliable, as did his testimony about the nature and extent of religious paraphernalia around the office.

Roger Deschamps

Roger Deschamps, a chartered accountant since 1970, had his own accounting practice since 1976. Until Charles Landreville joined him in January 1982, he was the only C.A. in the firm. His wife Denise was office manager or administrator. Mr. Deschamps spent nearly all of his time on accounting work, and had little to do with the day to day running of the office.

In addition to one or two secretaries, the firm employed a few accounting students and accounting technicians. There were four to six employees before Mr. Landreville's arrival, and that number gradually increased to about ten while Mr. Landreville was there. Mr. Deschamps testified that he personally kept close control over all accounting work done in the office, including that done by students such as Diane Demers and by accounting technicians such as Jacques Charron. He was always busy, he said, especially during tax season.

The firm's payroll records and accounts receivable were kept manually until 1985, largely by Mrs. Deschamps. Employee time was tightly controlled, Mr. Deschamps said, each employee being required to record his or her time by tenths of an hour. Ms. Demers' time sheets, which were put into evidence, showed, he said, that during August 1983, which was a period when Ms. Demers claimed to have been particularly pestered by Mrs. Deschamps about matters relating to religion, Ms. Demers spent 15 working days out of the office and only five days in the office. All five of those days, according to Mr. Deschamps, were while he and his wife were out of the country on holiday.

The critical comments about Ms. Demers' performance which Mr. Deschamps wrote in at the end of her November 1982 evaluation were, he testified, based largely on Mr. Landreville's input, as most of her time was spent under Mr. Landreville's supervision. Mr. Deschamps himself made the decision to give her only a \$500.00 raise at that point, he said, and he insisted that no factors other than merit entered into that decision. He recalled seeing the two pages of critical comments in Mr. Landreville's handwriting, referred to above and headed "Reasons for dismissal", though he could not recall exactly when.

Mr. Deschamps produced the minutes of a September 7, 1983 meeting between himself, Mr. Landreville and Mrs. Deschamps, written by Mrs. Deschamps. Those minutes read as follows with respect to Ms. Demers:

- 4) Diane's performance as per Charles
 - 1) does not remember anything that we teach her
 - 2) after over 1 year -- still a junior -- cannot be trusted for responsibilities [sic]
 - 3) personal problems seem to be hurting her work (car problems etc)
- D [Denise] -- not mature enough
- Decision -- fire immediately (Denise, OK let's give her one more chance -- Denise -- have a talk with her-- shape up or ship out.

The same minutes also said the following with respect to Carole Richer, Jacques Charron, Lynn Constantineau and Suzanne Dufour:

- 3) Adjust billing re Carole & Jacques OK. (Denise)
- 5) Lynn's performance -- good but seems to take everything to [sic] lightly as per Charles -- Denise please talk to her --
- 6) Suzanne -- decision by 3 -- let go as soon as possible.

The last item in the minutes mentioned that Mrs. Landreville

would be coming in part-time to help Mrs. Deschamps with administration. The minutes then concluded with the notation, "OK -- PTL". Mr. Deschamps testified that this meant "Praise the Lord", and that he took it as a sign of Mrs. Deschamps' delight that she would at last have some help with her administrative workload.

Most of Jacques Charron's work was done under Mr. Deschamps' supervision, and Mr. Deschamps testified at length about Mr. Charron's performance. With respect to Mr. Charron's \$2,500.00 raise in September 1982, Mr. Deschamps disputed Mr. Charron's testimony that he had asked for a small advance. In Mr. Deschamps' recollection, Mr. Charron mentioned that he needed money and asked how much he was likely to be making after the November increases. Mr. Deschamps testified that because he sympathized with the financial problems of a family man, he decided to give Mr. Charron a substantial increase effective immediately, rather than making him wait a couple of months. Mr. Charron's stated need, and not his competence, was the basis of the decision, Mr. Deschamps said.

Mr. Deschamps produced a list, in his own handwriting, of about 25 items to be reviewed with Mr. Charron with respect to how Mr. Charron had handled a particular file. It was unclear when the list was prepared, but the work in question was done for the financial year ending March 31, 1982, so it is likely that Mr. Charron, having started with the firm in May 1982, had been there only a short time when he did that work. Although Mr. Deschamps testified that it was unusual for so many items to need

review on a single file, Jacques Alexanian's testimony indicated that it probably was not, at least after so short a time on the job.

Rough written notes for Mr. Deschamps' November 1982 evaluation interview with Mr. Charron were also produced. Those notes briefly listed five items, all of them critical of Mr. Charron, but not sharply so. Two related to excessive time spent on files, and the others to the need to follow instructions, to be neat, and to be at work on time. Mr. Deschamps acknowledged that Mr. Charron appeared, at least at that point, to be receptive to instruction and willing to learn.

The most cogent written evidence that the Deschamps did in fact believe there were serious shortcomings in Mr. Charron's performance was provided by entries on the firm's accounts receivable cards for three clients indicating, in Mrs. Deschamps' handwriting, that a specified amount of the time spent on each of those files would not be charged to the clients because of "incompetence of Jacques Charron" (my translation), or "Jacques Charron -- took too much time". On one, \$275.85 of a total of \$3,375.85 was written off with such a notation in June 1982. On the others, both in June 1983, after Mr. Charron had left, the amounts written off in that way were \$237.80 of what appears to be a total of about \$800.00, and \$250.00 of a total of \$1,976.22. Mr. Deschamps did not claim that Mr. Charron was told about those writeoffs.

Other reasons for dismissing Mr. Charron, according to Mr. Deschamps, were his lateness in coming to work, his complaining

about Mr. Deschamps' refusal to overstate his income in connection with his mortgage application, and his broadcasting around the office of imputations of fraud on the part of clients on whose files he was working. Mr. Deschamps testified that he saw no hope of improvement in Mr. Charron's job performance.

As for Suzanne Dufour, Mr. Deschamps said that although he was not responsible for supervising her, she did a good deal of work for him, and he acknowledged that her work was good. What displeased him, he said, was that she talked too much about other employees, and that she would too often call them funny names, tease them, and make very derogatory remarks about them.

When Ms. Dufour lived with his family, Mr. Deschamps said, all that bothered him about her was that she stayed too long. To him, he said, her weekend visits with her estranged husband merely provided a convenient excuse to get her to move out. Ms. Dufour, he testified, was invited to go with them to Life Centre services, and went once or twice. She seemed to enjoy discussing religion, he said, and she would bring the subject up herself. She was wrong, he insisted, in alleging that the Deschamps held a prayer session for her in the office in an effort to cure her migraine headaches.

Until on into 1982, Mr. Deschamps acknowledged, he and his wife often had lunch with their employees in the office lunchroom, but gradually did so less and less. The reason, he said, was twofold: the lunchroom became crowded because of the increase in staff after Mr. Landreville's arrival, and the Deschamps preferred to have lunch elsewhere with a good friend

who worked nearby. The lunchroom discussions were animated, he admitted, but he attributed that less to Mrs. Deschamps than to Gilles Bastien, who, he said, would raise the subject of religion to get a reaction from Jacques Alexanian. Lynn Constantineau, he said, would also get excited about it, to the point where the Deschamps had to ask her to drop the subject. Although he had a good deal of contact with all three complainants and with other employees, he testified, no one ever pointed out to him that the atmosphere in the office had become uncomfortable.

Mr. Deschamps admitted that Jacques Charron was asked at times to pick up the Deschamps' children at the Life Centre school, and that Ms. Dufour may have been assigned secretarial work on Life Centre files which the firm handled without charge. However, he said, that was always done on office time, for which the employees in question were paid, and they were reimbursed for any travel expenses.

The evidence indicates that Mr. Deschamps was not particularly sensitive to what was going on outside his own inner office. However, I think he was generally telling the truth about his perceptions of employee job performance and about why the firm treated each complainant as it did, even though he appears often to have failed to make employees clearly aware of what he thought of their performance.

Denise Deschamps

Denise Deschamps testified that she was raised in the Catholic church, that she and her husband were practicing Catholics during most of their married life, and that there were still many practicing Catholics in their families. In 1980, she said, a series of misfortunes deepened their interest in religion. In September 1981, she testified, "I was converted or had an experience with the Lord...."

"Although I considered myself a born again Christian after September 1981," Mrs. Deschamps explained, she and her husband did not leave the Catholic church at that time, but became what she called charismatic Catholics. In February 1982, she said, they became aware of the Life Centre, which in her words "existed under the Bill Pranker Evangelistic Association", and they began to attend Mr. Pranker's services there. By the late fall of 1982, they had stopped attending Catholic services and were going to the Life Centre regularly. From Mrs. Deschamps' testimony, "born-again Pentecostal" appears to be an accurate name for the Deschamps' religious affiliation. She emphasized, however, that one could be "born again" regardless of denomination, and she used the term "Christian" to refer only to evangelical Christians who were "born again".

Mrs. Deschamps had worked for her husband since he opened his own firm in 1976, first in a secretarial capacity, then, at all times relevant to this inquiry, as office manager or administrator. As well as looking after the payroll, the accounts receivable and the accounts payable, she was responsible

for personnel matters, including interviewing applicants for secretarial jobs and doing initial screening interviews of applicants for accounting jobs. She supervised and appraised secretarial staff, and appears to have had the authority to assign files to accounting students and accounting technicians and to oversee such non-technical aspects of their performance as attendance, punctuality and attitude. Usually, she also had the unpleasant duty of telling employees that they were being dismissed, although Mr. Deschamps generally had the prime substantive responsibility for making dismissal decisions. There was no dispute that within her broad areas of responsibility, Mrs. Deschamps' acts were acts of the firm.

When looking for employees, Mrs. Deschamps testified, the firm never advertised in religious periodicals or in churches, but in ordinary local newspapers and in universities. The firm, she said, had had 58 employees in the twelve years since it opened its doors, and no more than five were born-again Christians. The great majority, she said, were Roman Catholics.

Mrs. Deschamps acknowledged that she might have mentioned her religious beliefs to some prospective employees during employment interviews -- not to communicate any expectations, she said, but "more on a comment basis". She admitted telling Jacques Alexanian, in his employment interview, that she went to the Life Centre and was a born-again Pentecostal. The reason why she told Mr. Alexanian and Gilles Bastien something about her religious beliefs and activities during their interviews, she said, was because Mr. Alexanian had volunteered information about

his own religious activities and Mr. Bastien about his wife's. In cross-examination, Mrs. Deschamps also acknowledged that she might have confided to Mr. Alexanian and to Lynn Constantineau (the two witnesses other than the Deschamps who were Christians in her sense of the term) that she hoped to have a Christian office and a Christian staff. However, she insisted that the firm's hiring practices never reflected that aspiration. All employees, she said, were hired solely on the basis of how well they appeared to meet the firm's business needs; "it didn't matter what faith they were". Sometimes, she testified, she would tell new employees that "because we were a professional firm, I would not stand for any swearing, dirty jokes or slanted jokes in the office".

Through Mrs. Deschamps, the respondents adduced several of the religious or inspirational messages that were posted in the office in the 1982-83 period, some of them in the lunchroom and others elsewhere around the office -- in the hallway and the reception area. One or two of the messages were entirely inspirational in content and tone, without any expressly religious references. The others had a combination of religious and inspirational content. None of them can be described as explicitly proselytizing for any particular religious point of view, but taken together, they have a strong religious thrust. Mrs. Deschamps acknowledged that she also put small stickers reading, "Have a good day, God made it", or something similar, on the small bulletin board at each employee's workplace or on the employee's office machine. No employee ever complained to her

about the presence of any of the messages, Mrs. Deschamps said. Indeed, she testified that Ms. Dufour asked for extra stickers to put on her machines.

Mrs. Deschamps acknowledged that she gave bibles as gifts to Ms. Dufour, Ms. Demers, and most of the other employees. She denied, however, that she ever pressed them with questions about whether they were reading their bibles. Never, she said, did she put any religious tracts on Ms. Demers' desk, or on any other employee's desk. Apart from two records which she gave to Ms. Dufour as a birthday present, Mrs. Deschamps denied that she ever brought religious tapes or records to the office for any employee to listen to. Nor, she insisted, did she ever say anything to the effect that Catholic priests, or other Catholics, were damned or would go to hell; such remarks, she said would have hurt her Catholic relatives and friends, among whom were priests. When reminded of the testimony of several witnesses that she had indeed said such things in the office, her response was, "That's their problem".

Never, Mrs. Deschamps said, did she notice any tension, religious or otherwise, during lunchroom discussions. "I must have busted their ears a few times about Myrtle Beach" or about other holiday spots, she admitted, but that was all. As for inviting employees to the Life Centre, she testified that she only did that when the Life Centre had a special event, such as a movie which she thought they might find interesting, and that she showed no displeasure if they did not go.

As for contributions to Bill Prankerd's campaign for

children in India, Mrs. Deschamps admitted that she did ask the firm's employees, at an office meeting in early 1983, to make such contributions in small monthly amounts. Her goal, she said, was to have a child sponsored by the employees as a group, in addition to the child that the Deschamps themselves were sponsoring. Ms. Dufour, she pointed out, agreed not only to contribute to the group sponsorship but also to sponsor another child entirely on her own. Mrs. Deschamps denied that any part of those contributions went to the American evangelist Jimmy Swaggart. Whatever the complainants may have thought, Mr. Frankerd, she said, had no links with Mr. Swaggart.

During cross-examination, Mrs. Deschamps was shown the 1984-85 edition of the Ottawa Christian Telephone Directory, which contains a statement, apparently prepared by the editors of that publication, of 21 points of evangelical Christian doctrine purporting to be taken from cited biblical passages. After getting Mrs. Deschamps to agree that those points generally set out the precepts that she believed in, Ms. Coady called her attention to one of those points, which read as follows: "We believe the church to be a fundamental, Bible-believing, missionary minded evangelical assembly of born-again Christians". This exchange then took place between Ms. Coady and Mrs. Deschamps:

Q1973. How about "missionary-minded"; does that mean you feel you have an obligation as a Christian to go out and convert other people?

A. No, not necessarily.

Q1974. So, you do not think that there is any obligation on Christians to go out and proselytize?

A. That's not what I said.

Q1975. Do you think there is?

A. It's our responsibility.
 Q1976. Did you take this responsibility seriously?
 A. I always take my responsibilities seriously.
 Q1977. Did you ever do anything about it actively?
 A. I would have given out a few Bibles and I would have answered questions.
 Q1978. Just answered questions?
 A. Yes. There is a difference --
 Q1979. You never volunteered anything?
 A. I could have volunteered, but there is a difference between answering a question, volunteering, and harassing.
 Q1980. I suggest to you, Madam, that this was a topic you enjoyed talking about, was it not?
 A. You can suggest what you want, Ms. Coady.
 Q1981. Mrs. Deschamps, did you enjoy speaking about the Bible?
 A. Yes. I enjoy speaking about clothes, I enjoy speaking about a lot of things.
 Q1982. Did you frequently bring up biblical topics in conversations by yourself?
 A. Not more than I would bring out anything else.

Mrs. Deschamps said that she did often talk about religion with Ms. Dufour in the office, but that she thought Ms. Dufour was really interested in the subject because she put so many questions to Mrs. Deschamps about it. Mrs. Deschamps also testified that no prayer session was ever held in the office to cure Ms. Dufour's migraine headaches -- a point on which Mrs. Deschamps is supported by every witness except Ms. Dufour herself. When pressed, during aggressive cross-examination by Ms. Coady, to specify what parts of Ms. Dufour's testimony she thought were wrong, Mrs. Deschamps replied, "99.9%".

Ms. Dufour's testimony that Mrs. Deschamps told her that she thought Ms. Dufour's estranged husband was possessed by the devil was, according to Mrs. Deschamps, "absolutely false". That idea, Mrs. Deschamps said, came from Ms. Dufour herself, in the course of her own complaints about her husband. When Ms. Coady put to Mrs. Deschamps in cross-examination that both Gilles Bastien and

Lynn Donaghy had testified to hearing her say something of that sort, Mrs. Deschamps insisted that they were both lying. In response to Ms. Dufour's allegation that Mrs. Deschamps had reduced Lisette Carrière's working time in early 1983 in order to push Ms. Dufour harder, Mrs. Deschamps produced time sheets indicating that on average, Ms. Dufour worked little more than an hour a week of overtime from January to May of 1983 -- the tax season, mostly -- and that Ms. Carrière worked steadily through that period, except for one week in April.

Mrs. Deschamps admitted that when Ms. Dufour asked her for time off during that tax season in order to have surgery, her negative response may have included the suggestion that Ms. Dufour attend a Bill Frankerd miracle service instead. However, Mrs. Deschamps surmised that she "was being a little bit sarcastic" to Ms. Dufour, because the request came at such a busy time, and because she had become sceptical about Ms. Dufour's frequent ailments. In the light of Mrs. Deschamps' evidence as a whole, I think it is quite unlikely that she would refer to a Frankerd miracle service in a sarcastic vein.

After Mrs. Deschamps rejected that request from Ms. Dufour for time off for what she saw as a dubious ailment, she and Mr. Deschamps, she said, virtually decided to fire Ms. Dufour if she made the same request again, which Ms. Dufour did not do. But before long, Mrs. Deschamps said, she was once more thinking of dismissing Ms. Dufour, in spite of her undoubted competence as a secretary. The reason, according to Mrs. Deschamps, was that Ms. Dufour had become an inveterate gossip and rumour-monger, and was

very hard on Jacques Charron and, after he left, on Lisette Carriere. As well, Mrs. Deschamps claimed, Ms. Dufour did not readily accept the fact that Charles Landreville was her superior in the office. Mr. Landreville became a partner at about the same time that the Deschamps asked Ms. Dufour to move out of their house, and Mrs. Deschamps suggested that the two events may have combined to sour Ms. Dufour's attitude.

Mrs. Deschamps admitted that she was not as friendly to Ms. Dufour from February or March of 1983 as she had been before, but she claimed that Ms. Dufour's testimony overstated the change of climate between them. Mrs. Deschamps insisted that her coolness toward Ms. Dufour had nothing at all to do with religion, but was based on what she saw as Ms. Dufour's negative behaviour.

When Ms. Dufour offered, in June 1983, to move to part-time status as of September 15, Mrs. Deschamps testified that she was pleased, as she saw it as a first step out the door for Ms. Dufour. Mrs. Deschamps presented some not very satisfactory time sheet evidence to the effect that Ms. Dufour was called in for somewhat more part-time work during the latter half of September than Ms. Dufour alleged, and Mrs. Deschamps also testified that Ms. Dufour was not ignored on the occasions when she was called in during that period. When the Deschamps subsequently decided to end Ms. Dufour's effectively inoperative part-time arrangement by formally dismissing her, which Mr. Deschamps did by letter on October 17, 1983, the reason, according to Mrs. Deschamps, was that they did want her back

because of her unsatisfactory behaviour.

Mrs. Deschamps challenged Ms. Dufour's conclusion that it was because of religion that Mrs. Deschamps decided to replace Ann St.-Denis with Lynn Constantineau as Ms. Dufour's trainee-replacement. According to Mrs. Deschamps, Ms. St.-Denis was good at typing and word processing, but was not satisfactory as a receptionist; she was too quiet and shy to deal adequately with telephone calls and with people who came into the office. Having seen and heard Ms. St.-Denis and Ms. Constantineau give testimony, I think Mrs. Deschamps' evidence on this point is credible. Ms. Constantineau's personality seemed considerably better suited to the role of receptionist in a busy office.

With respect to Jacques Charron, Mrs. Deschamps was less familiar than Mr. Deschamps with his accounting and auditing work, but her evidence generally paralleled that of Mr. Deschamps about Mr. Charron's conduct in the office and about the reasons for his dismissal. She added one factor which, she said, affected her relations with Mr. Charron -- his "problems in taking orders from a lady boss". The only specific example which she gave was his failure to heed her instructions to park his car outside rather than inside. He was more deferential to Mr. Deschamps, she said.

Apparently in response to Mr. Charron's testimony that religion was the main topic discussed at the meeting in March 1983 between himself and the Deschamps, when he was told of his dismissal, Mrs. Deschamps gave her version of what was said at that meeting. First, she testified, Mr. Deschamps set out

the professional reasons for the dismissal, then she gave the reasons related to attitude. Then, she admitted, she added some unsolicited personal advice to Mr. Charron about how he should treat his family. She then gave him a bible as a parting gift, and she did not deny his claim that she told him he badly needed it.

Mrs. Deschamps acknowledged that when Mr. Charron returned a few days later to get his final paycheque, she did not let him come up to the office but met him in the downstairs lobby. The rather unconvincing reason she gave for treating him in that way was that Suzanne Dufour had threatened to give him a piece of her mind if she got the chance.

With respect to Diane Demers, Mrs. Deschamps denied that she ever said or did a number of the distressing things alleged by Ms. Demers. Never, Mrs. Deschamps testified, did she raise the spectre of any sort of impropriety in Ms. Demers' relationship with Gilles Bastien. She and her husband did offer the Bastiens the use of their chalet over the 1982 Christmas holidays, she said, but the rest of Ms. Demers' evidence on that incident was "pure fabrication". The only time Ms. Demers ever began to cry in Mrs. Deschamps' office, Mrs. Deschamps insisted, was after she had failed an accounting examination, and Mrs. Deschamps testified that at no other time could she have said anything that would have brought Ms. Demers to tears. Never did she ask Ms. Demers whether she was reading her bible, Mrs. Deschamps testified, or suggest to her that she watch 100 Huntley Street on television.

Mrs. Deschamps did not deny Ms. Demers' allegation that she scolded her for receiving flowers from an Assaly employee, or that she gave Ms. Demers no chance to explain her innocence of any improper conduct in connection with that incident. Nor did Mrs. Deschamps deny that that incident led her to seek to have Ms. Demers kept off the Assaly audit team the next year. However, Mrs. Deschamps said, the authority to decide the makeup of that team was not hers; all she could do was advise Mr. Deschamps and Mr. Landreville on such matters.

At the meeting on September 7, 1983, when the Deschamps and Mr. Landreville assessed the performance of several of their staff, it was indeed Mr. Landreville who pressed for Ms. Demers' immediate dismissal, Mrs. Deschamps said, and it was she herself who secured a reprieve for Ms. Demers by offering to talk to her and try to persuade her to improve her performance. The documentary evidence supports Mrs. Deschamps on that point.

During her lengthy testimony, Mrs. Deschamps impressed me on the one hand as an impulsive, hard-driving person with deep feelings and a strong concern for other people, and on the other hand as someone capable of astonishing insensitivity and self-righteousness. Only on a few specific points did I feel quite certain that she was not telling the truth, but her overall credibility was impaired by her combativeness and evasiveness on cross-examination, and by the frequency of her flat denials that she ever said or did things which a number of other witnesses convincingly testified that she had indeed said or done.

It is with respect to Mrs. Deschamps' treatment of Suzanne

Dufour and Diane Demers that conflicts most often appear between her evidence and that of the complainants. My own impressions of relative trustworthiness, and the testimony of those independent witnesses whom I found to be the most helpful -- particularly Gilles Bastien and Lynn Donaghy (Constantineau) -- have led me to the conclusion that Mrs. Deschamps' testimony is generally to be preferred where it conflicts with that of Ms. Dufour but not where it conflicts with that of Ms. Demers.

Gilles Bastien

Although he had no formal accounting qualification, Gilles Bastien worked for the Deschamps as an accountant for about 18 months, from early 1982 until mid-1983. He was about 36 years old at the time, and had previously had experience managing a caisse populaire and running his own business. At the time of the hearing, he was the comptroller for a large car dealership, and he testified that the training in accounting which he received from Mr. Deschamps stood him in good stead in his subsequent career. The evidence indicates that he was regarded by the Deschamps as an able and diligent worker.

Mr. Bastien, who was called as a witness by the Commission, testified that he resigned from the Deschamps' firm as a result of what he considered to be an instance of shabby treatment by Mrs. Deschamps -- i.e., her criticism of him for leaving work two or three minutes early one day, after he had put in unusually long hours earlier that week. He also had what seems to have been the standard sort of quarrel with her over the calculation of the amounts owing to him when he left. In addition, he had what was described as a "big brother" relationship with Diane Demers, and that may have coloured his testimony to some degree. Nevertheless, he seemed to hold no grudge against the Deschamps, and his apparent combination of relative detachment, forthrightness, and sensitivity to the feelings of both the complainants and respondents gave his testimony considerable value.

The atmosphere in the office lunchroom, Mr. Bastien said,

was often tense because of Mrs. Deschamps' comments about Catholics and Catholic priests. According to him, she would make remarks to the effect that Catholics were on the wrong track, "that priests knew they weren't telling the truth, that they were leading the world astray -- that sort of thing" (my translation). Although Mr. Bastien's wife had been very active in the Catholic church, and he himself was Catholic, such remarks, he said, did not particularly bother him personally. "But", he added, "for someone who was perhaps younger, who had less experience, that would perhaps have intimidated them -- it's possible" (my translation).

Rather than object to Mrs. Deschamps' religious comments, Mr. Bastien said that he (and others) would simply eat lunch faster and go out for a walk. He might have been willing to argue with someone who had no authority over him, he said -- "but I cannot argue with my boss".

As for Mrs. Deschamps' invitations to morning prayer sessions in the boardroom, Mr. Bastien said that she extended such invitations two or three times, that he took them as mere invitations and not as orders, that he never went to the sessions and did not know of anyone who did go, and that he noticed no ill treatment for not having gone. Mrs. Deschamps often talked about the Life Centre, he said, and she suggested to him once or twice that he go there, but he never did. He described Mrs. Deschamps as "a bit fanatic" about religion (my translation), though not extremely so. Religious stickers and posters, he said, were very obvious around the office.

Mr. Bastien acknowledged that he did not have a lot of contact with Suzanne Dufour, though he found her to be pleasant and a good worker. He testified that he once heard Mrs. Deschamps speak of Ms. Dufour's husband as "damned", but he was not sure that it was said with any religious import. He worked with Jacques Charron on certain files, and noticed nothing unusual about Mr. Charron's work, other than his bad handwriting.

He did not work closely with Diane Demers until after they had both left the Deschamps' firm, Mr. Bastien said, but he did get to know her well personally at that firm. To his knowledge, he testified, Mrs. Deschamps criticized Ms. Demers about a number of things, including the incident involving flowers, mentioned above, but not, as far as he knew, about the quality of her work. Shortly after Christmas 1982, he saw Ms. Demers crying in her office, he said, and she told him that Mrs. Deschamps had suggested that she might be having an affair with him -- a suggestion which he described as totally unfounded. After that, Mr. Bastien said that he frequently took Ms. Demers out for lunch, to get her away from the atmosphere in the office.

The people who, in Mr. Bastien's view, seemed to suffer the most from that atmosphere were Ms. Demers and Mr. Charron, both of whom he described as nervous people. Ms. Dufour, he said, did not appear to be bothered by it.

Lynn Donaghy (formerly Lynn Constantineau)

From August 1983 to May 1984, when she was about 24 years old, Lynn Donaghy (then Lynn Constantineau) worked for the Deschamps as a secretary. At the time of the hearing, she was a full-time mother. She was called as a witness by the Commission.

Before taking a job with the Deschamps, Ms. Donaghy testified, she was secretary to Bill Prankerd at the Life Centre, where she was herself a member. When it became known that she was to be laid off because of Mr. Prankerd's departure, Ms. Donaghy was hired by Denise Deschamps, and was trained for about three weeks in the Deschamps' office by Suzanne Dufour. She did recall that someone else (undoubtedly Ann St.-Denis) was being trained for the same job when she arrived. She succeeded Ms. Dufour as full-time secretary in September 1983.

In May 1984, Ms. Donaghy said, she overheard Mrs. Deschamps making unfavourable remarks about her work over the telephone, and she decided that she ought to quit. However, according to Ms. Donaghy, Mrs. Deschamps would not let her resign, but insisted on firing her immediately.

Although she did not start working for the Deschamps until about three weeks before the end of Ms. Dufour's employment and about two months before Diane Demers was dismissed, Ms. Donaghy appears to have had considerable contact with Ms. Dufour as her trainee, and to have had a fair amount of contact with Ms. Demers as well. As for Mrs. Deschamps, Ms. Donaghy worked in quite close proximity to her for about nine months in 1983 and 1984. Ms. Donaghy's religious beliefs and attitudes appear to have been

closely compatible with those of Mrs. Deschamps, but she knew Mrs. Deschamps too well as an employer to have a particularly sanguine view of her in that capacity.

On the whole, Ms. Donaghy's testimony, though sometimes rambling and inelegantly worded, struck me as being extremely spontaneous and not tailored in favour of either side. Her portrayal of Denise Deschamps as an employer fitted somewhat better than that of any other witness with my own impression of Mrs. Deschamps. It seemed to be neither varnished, like Carolle Richer's, nor vindictive, like that of Suzanne Dufour and perhaps the other complainants as well. Ms. Donaghy's portrayal of Suzanne Dufour also matched the impression I formed of Ms. Dufour.

When Ms. Donaghy was new on the job, she testified, Mrs. Deschamps warned her that she was a hard person to work for, and gave her the message that "because I am a Christian, she'll demand more because as a Christian, we give more". Also, Ms. Donaghy said, Mrs. Deschamps spoke of a wish to have a Christian staff, but not in such a way as to indicate any intention to replace existing staff with people of more congenial creed. In Ms. Donaghy's words, the wish went no farther than this: "Like, if it was gonna happen, then it would be a lot easier for everybody".

Ms. Donaghy was quite explicit on the religious message she thought Mrs. Deschamps was trying to get across to people in the office. In her words, she thought Mrs. Deschamps "was trying to tell people about Jesus in trying to tell them what they have to

do to enter the Kingdom of God." The bible, Ms. Donaghy testified, says "that you cannot pray to Mary to go to heaven. And that's what she was trying to tell them." Ms. Donaghy admitted that she never actually heard Mrs. Deschamps tell a Catholic employee that Catholics would go to hell, although she remembered discussing with Mrs. Deschamps "how we need to talk to people about the Catholic faith and how we have to... warn them and show them that they have to turn away from that and look to Jesus instead of the religion."

At some points in Ms. Donaghy's testimony, I was not entirely sure whether she was giving her recollection of what Mrs. Deschamps actually said to other employees, or her conjecture on what Mrs. Deschamps probably said, on the basis of their shared religious beliefs and on the basis of her knowledge of Mrs. Deschamps. It was quite clear, though, that Ms. Donaghy did recall hearing Mrs. Deschamps talk fairly often about religion to and with other employees, and did recall that she and Mrs. Deschamps expressly agreed that they had a duty to try to convince others that their own religious beliefs were true and that undesirable consequences would follow in the afterlife from adherence to false beliefs.

Ms. Donaghy's testimony strongly indicates that Mrs. Deschamps not uncommonly engaged in religious proselytizing among the firm's employees. That testimony adds to the credibility of testimony to the same effect from the complainants, and from Gilles Bastien and others. However, it points away from Mrs. Deschamps' having made any threats that undesirable job-related

consequences would flow, in this world as opposed to the next one, from a failure to adopt the religious beliefs and practices that she was advocating. In that vein, Ms. Donaghy said:

...I think just in little ways she was trying to bring Christ to them. But I don't think she's put, like, emphasized 'if you don't become a Christian, I'm gonna get on your case'. I don't think that's what she tried to put in their mind.

Nevertheless, Ms. Donaghy had no illusions about the impact that religious proselytizing could have, and apparently was having, on relations within the office. When asked if she noticed any tension in the office, she said:

There is tension when you are gonna talk about the word of God because it's something that makes, like that challenges people to change, and it's gonna build tension wherever you are.

Speaking generally of the relationship between Mrs. Deschamps and the firm's employees, Ms. Donaghy said:

Well, from what I know of Mrs. Deschamps, she's a very open person, and she got very personal with her employees as for like they would go in her office and they would sit down and talk and I don't think she was ever um, um, I don't really know what happened in her office with them because I was not there, but they were as much to blame if they really think about it because they, they would ask her questions as much as she would ask them questions after a while.

Ms. Donaghy gave some testimony, which I found very helpful, about the relationship between Denise Deschamps and Suzanne Dufour, and more sketchy but still fairly useful testimony on the relationship between Mrs. Deschamps and Diane Demers.

Ms. Dufour testified that by August 1983, when Ms. Donaghy arrived, Mrs. Deschamps was no longer communicating with her on personal matters. Ms. Donaghy, in contrast, said that Ms. Dufour still "shared a lot with Mrs. Deschamps", and "had really opened

up" with her. Ms. Dufour, according to Ms. Donaghy,

was a very hyper person, very unhappy, and she would share that her husband was like this, and was like that and used to go to, I forget now, voodooism or something like that. And just the things he was doing, myself, I would have, I would have thought that, but I don't think I would have said it.

When asked if she ever heard Mrs. Deschamps speak of the devil with regard to Ms. Dufour's husband, Ms. Donaghy admitted that she could not remember precisely, but that Mrs. Deschamps said "that he was demon possessed or something like that". The thrust of Ms. Donaghy's testimony was that if Mrs. Deschamps did say something to that effect, it was brought on by Ms. Dufour's own complaints about her husband.

When asked whether she had ever heard Mrs. Deschamps try to bring Ms. Dufour around to her view of Christianity, Ms. Donaghy answered:

Mrs. Deschamps had a very close relationship with Suzanne, but I never saw anything that Suzanne did not dislike [sic] or anything. If anything, Suzanne asked a lot of questions. And Mrs. Deschamps only responded to the questions.

Ms. Dufour, Ms. Donaghy said,

would ask me questions because Mrs. Deschamps had already spoken to her, and she would ask me questions about certain things. Don't ask me what now, but she would ask me different things, and I was more than happy to try to encourage her that Jesus would be able to take away her fears and whatever else she was going through at the time.

With respect to Diane Demers, Ms. Donaghy remembered her as a young and sensitive person. Ms. Donaghy thought she recalled, though quite vaguely, that Mrs. Deschamps once indicated that "she wanted to talk to [Ms. Demers] about the way she was dressing and the way she was conducting herself with the men in

the office...." Counsel for the Commission asked, "Was this in the context of Christianity and showing people God's way?" Ms. Donaghy replied, "No, I don't think so. Well, yes, it was, I guess, she thought of it that way, ya". When asked if she knew whether Mrs. Deschamps did in fact speak to Ms. Demers about her manner of dress and her behaviour, all that Ms. Donaghy could recall was seeing Ms. Demers once come out of Mrs. Deschamps' office upset and in tears.

Jacques Alexanian

Jacques Alexanian worked for the respondents from May or June of 1982 until May 1988. He was a chartered accountancy student during the period relevant to this inquiry. At the time of the hearing, he had become a Certified General Accountant and was working on his own.

Mr. Alexanian was called as a witness by the respondents. Although he appeared to be unfailingly straightforward in his testimony and was well-liked by his co-workers, he did not impress me as particularly sensitive to what was going on around him in the Deschamps' office during the critical 1982-83 period.

Mr. Alexanian, who was a Baptist, described himself as a born-again Christian and was considered as such by Mrs. Deschamps. Once, he testified, Mrs. Deschamps said to him that it would, as he paraphrased it, "be nice" if the office staff were all born-again Christians. In his words, though, he "saw no push to hire staff in that direction". When asked if derogatory remarks were made about Catholics, he answered, "I know Madam Deschamps doesn't agree with many aspects of the Catholic faith, and I recall her saying that", but he could not give much in the way of further details.

Mr. Alexanian confirmed that Mrs. Deschamps sometimes gave a collective invitation to employees to come to the Life Centre, but not to regular services -- only, he said, to certain special events. Contrary to Suzanne Dufour's testimony, Mr. Alexanian said that he never went to any of the morning prayer sessions in the board room, and he had no recollection of any prayer meeting

being held with a view to curing Ms. Dufour's migraine headaches.

On the client files that he had worked on, Mr. Alexanian testified, Mr. Deschamps would commonly put "a series of notes, things that I would have to change, things that I would have to correct". Having to make a large number of corrections would be normal when an employee was new to the job, he thought, but not later on.

Carolle Richer

Carolle Richer, a Certified General Accountant since 1986, was a senior accountant with the respondents' firm at the time of the hearing, and was called as a witness by them. She had worked there since July 15, 1983, except for a brief interlude in 1986 and 1987, and she was the Deschamps' most senior employee. Her first couple of months at the Deschamps overlapped approximately with the last couple of months of Suzanne Dufour's and Diane Demers' employment there.

Ms. Richer described herself as a non-practicing Roman Catholic, and as not very religious. During a pre-employment interview, she testified, Denise Deschamps told her that the Deschamps were born-again Christians. Ms. Richer's response, she said, was "That's OK, as long as you don't try to convert me". Ms. Deschamps knew at the time, according to Ms. Richer, that she was a Catholic, that she was separated, and that she was supporting a small daughter. Because of what she had heard about Mrs. Deschamps from other employees, Ms. Richer said, she was afraid at first to tell Mrs. Deschamps that she was living with a man. Eight or nine months later, in April 1984, she finally got up the courage to tell Mrs. Deschamps about her living arrangements, and she testified that she met with no disapproval as a result.

During the first month of her employment, Ms. Richer said, she was out with the Assaly audit team, and she would sometimes hear from Diane Demers about the problems Ms. Demers was having on the office. At other times, she was in the office, where, she

said, Suzanne Dufour was "always complaining". According to Ms. Richer, Ms. Dufour and others "often complained about being forced to go to morning prayers and things like that", but she (Ms. Richer) "never saw any of it". Mr. and Mrs. Deschamps, she said, "didn't talk about religion", but did sometimes talk about what was going on at the Life Centre.

According to Ms. Richer, Mrs. Deschamps never invited her to the Life Centre, but she went once on her own initiative. The Deschamps, she said, were very pleased that she went, and Mrs. Deschamps brought her a bible and other religious books the next day. However, to avoid giving Mrs. Deschamps the false impression that she was really interested, "I came right out and told her, 'I'm not ready for this'". Mrs. Deschamps, according to Ms. Richer, merely said, "That's fine. Some day", and showed no coolness toward her.

There were posters in the office, "and they have scriptures on them", Ms. Richer testified, "but you have to be pretty close to know it". They did not bother her, she said, and when asked what the messages on the posters were about, she replied, "I don't understand them. I've never read the Bible, so I don't know".

In cross-examination, Ms. Richer, in what she clearly intended to be a reference to the complainants' allegations in general and to her own long and continuing tenure as an employee of the Deschamps, said, "I am living proof that it's not true".

Ms. Richer's testimony, in my view, was somewhat too pat and too clearly partisan to be taken without considerable caution.

Chantal Foré

Chantal Foré was a secretary for the Deschamps from June 1979 to December 1981, apparently as Suzanne Dufour's predecessor. Her time at the Deschamps did not overlap with that of any of the complainants. After leaving, she went to work for a university, where she was a support staff supervisor at the time of the hearing. She was called as a witness by the Commission.

The atmosphere in the Deschamps' office, Ms. Foré testified, was good until her last year, when Denise Deschamps began to talk more and more about religion and began to put up religious signs. Mrs. Deschamps would also initiate discussions on religion, Ms. Foré said, and would bring religious records to the office for her to listen to.

Thanh Vo

Thanh Vo, who came from Vietnam in 1975, worked for the Deschamps from 1976 to April 1982 as a senior accountant (a technician). After leaving the Deschamps, she took a job with the same university as Ms. Foré, and at the time of the hearing she had just been promoted to the position of assistant to the comptroller. She was called as a witness by the Commission.

Ms. Vo was a Buddhist, and was known to be such by Mrs. Deschamps. During her last year with the Deschamps, Ms. Vo testified, religious matters, which had previously not intruded on life in the office, became much more noticeable. However, she mostly worked at clients' premises, and she admitted that she was

not in the office enough to be much affected by the Deschamps' new religious emphasis, nor was she able to give many details on how that emphasis manifested itself. The last three months or so of Ms. Vo's employment at the Deschamps' firm overlapped with the beginning of Suzanne Dufour's time there, but Ms. Vo said that she did not get to know Ms. Dufour well, and that she did not know the other two complainants at all. There was a conflict, of no great consequence, between Ms. Vo's recollection that Denise Deschamps gave her a bible and Mrs. Deschamps' testimony that it was the other way around -- that Ms. Vo gave her (Mrs. Deschamps) a bible that Ms. Vo received when she took Canadian citizenship.

Ms. Vo had no problems at the Deschamps, she testified, until, in her last year there, she began to question Mrs. Deschamps about her overtime hours. Mrs. Deschamps, she said, threatened not to give her any references if she quit during the tax season. She resigned at the end of that season, she said, not for any religious reason but because her friends in the office, including Chantal Foré, had all left, and she felt very much alone.

According to Ms. Vo, she had a quarrel with Mrs. Deschamps, at the time of her resignation, over vacation pay, overtime pay and the like. In the course of quite a bitter letter to Ms. Vo on May 10, 1982, Mrs. Deschamps said (my translation):

One again, be assured that I no longer hold anything against you, and I pray for you and even for Chantal [Foré], who has certainly incited you a lot lately, which surprises me about Chantal. I thought she was more Christian than that. Sometimes with people like you and Chantal to whom you think you've been good, these same people suddenly turn around and stab you in the back.

Ann Rocque (formerly Ann St.-Denis)

Ann Rocque, who was called as a witness by the Commission, testified that she was hired as a secretary by Denise Deschamps in the summer of 1983, when she was 18 years old, on the understanding that she would work part-time for the rest of the summer and would succeed Suzanne Dufour as full-time secretary in the fall. She worked part-time under Ms. Dufour's tutelage, she said, until, at some point before she was to become a full-time employee, Mrs. Deschamps telephoned her and told her that her services were no longer needed because someone else had been hired for the fall.

No one ever criticized the quality of her work while she was with the Deschamps, Ms. Rocque said. After her dismissal, she worked for a placement agency for a year and moved on to Canada Post, where she held a level 4 clerical position at the time of the hearing.

While she was with the Deschamps, Ms. Rocque testified, Mrs. Deschamps would talk to her about religion and about the Life Centre school attended by the Deschamps' children. When Mrs. Deschamps tried to encourage her to go to services at the Life Centre, Ms. Rocque replied, she said, to the effect that she was Catholic and was not interested in such services. It was Mrs. Deschamps who initiated those discussions, Ms. Rocque testified, because she herself was not the sort of person to start a conversation. That observation on her part was borne out by the very shy and quiet manner in which she gave her evidence.

denial of the equal respect that is essential to a liberal democratic society.

"Human Rights legislation", the Supreme Court of Canada has said, "is of a special nature and declares public policy regarding matters of general concern." Winnipeg School Division No. 1 v. Craton [1985] 2 SCR 150, at p. 156. The Human Rights Code, 1981, explicitly protects employees against religious pressure or religiously-based mistreatment. No matter how convinced anyone may be that he or she has a religious message that others should hear and heed, the Code prohibits him or her from pressing that message in the workplace. A religiously militant employer is no more entitled to impose his or her version of religious enlightenment on employees than a sexually militant employer is entitled to impose his or her sexual ideas or wishes.

It is true that the Code's provisions on religious harassment and religious discrimination do not prohibit all overtures or all conversation on religion, just as the provisions on sexual harassment and sexual discrimination do not prohibit all social overtures by employers or co-workers toward employees, or all discussion of sexual topics. In each case, however, an employer or co-worker must scrupulously avoid taking any advantage of the employment relationship or the workplace environment to put unwelcome pressure, whether sexual or religious, on any employee.

As important as the right of an employee not to be harassed or discriminated against, on religion or on any other prohibited

ground, is the right of an employer not to be wrongly held guilty of such conduct. Breaches of human rights legislation are serious offences, and an employer cannot be found to have committed such a breach unless a board of inquiry is satisfied, on a balance of probabilities, that each element of the alleged offence has been established. Because the Ontario Human Rights Commission has been entrusted by the legislature with the duty of vigorously enforcing the Code, and has been given the multiple role of investigating the complaint, requesting the appointment of a board of inquiry and carrying the complaint before that board, a board of inquiry should in my view be particularly careful, in discharging its adjudicative function, to ensure that the rights of the respondent are fully respected.

C. THE ALLEGATIONS OF RELIGIOUS HARASSMENT

The Commission argued that the respondents' conduct with respect to religion in the workplace was extensive and far-reaching, that they knew or should have known that it was unwelcome to each of the complainants, and that the complainants suffered injury from it.

The respondents denied that anything they said or did with respect to religion in the workplace went beyond the limits of normal interaction between people who work together -- or, to use the words of a leading decision on sexual harassment, beyond the limits of "normal social contact". Bell and Korczak v. Flaming Steer Steak House (1980) 1 CHRR D/155, at p. D/156 (Shime). In

addition, the respondents submitted, if their behaviour with respect to religion was unwelcome to any of the complainants, they (the respondents) were not made aware of that fact until the complaints were brought, and they should not have been expected to realize it without being told. Any unfavourable job action which they took against the complainants, the respondents further argued, was due not to religion but to the honest belief that the particular complainant's job performance or behaviour on the job was unacceptable.

Was the respondents' behaviour with respect to religion, in the office and in the presence of the complainants, sufficient to amount to a course of comment or conduct relating to religion? If it was, did the respondents actually know, or should they reasonably have known, that their behaviour was unwelcome to the complainant or complainants involved? In order to answer those questions, I will go over the most significant aspects of the respondents' comments and conduct, and the complainants' reactions. I do not think a separate issue is raised by the inclusion of the adjective "vexatious" in the statutory definition of harassment; if someone persists in a course of behaviour which he or she knows or ought to know is unwelcome, it surely follows, without more, that that behaviour is vexatious.

COMMENTS OR CONDUCT CLEARLY RELATED TO CREED

-- The displaying of religious posters and stickers

An employer does not have an entirely unfettered choice of what messages to display in the workplace. If messages put up in

a workplace speak to a prohibited ground of harassment and are part of a course of comment or conduct which the employer knew or should reasonably have known was unwelcome to a particular employee, then there has been a breach of that employee's rights under s. 4(2) of the Human Rights Code.

Messages which say derogatory things about the religious beliefs of any employees are no doubt contrary to the Code, no matter where on the employer's premises they are posted. In the case before me, however, the messages that were displayed sought only to advance one religious point of view, and said nothing derogatory about other beliefs. Messages of that sort, if put up by an employer in his or her private office or work station, would usually be seen as purely personal items intended for his or her private inspiration or comfort, and could not readily be construed as involving any element of harassment of other employees. However, the situation is surely different if the employer displays such messages in common areas of the workplace, where employees continually see them and where they might well be taken as something more than a statement of the personal beliefs of a particular individual.

The likelihood of harassment is even clearer, in my view, if the employer posts religious messages at individual employee work stations, where one would normally expect to find material that is personal to the employee who usually works there. In the case before me, Mrs. Deschamps put up religious messages not only in open areas of the office but also at individual employee work stations. No employee appears to have objected openly, but as I

will explain below, I do not think that can justify the conclusion that the respondents should not have been aware of the unwelcomeness of the course of conduct of which the display of those messages was an integral part.

-- Mrs. Deschamps' remarks on religion

The evidence shows that Mrs. Deschamps very frequently made comments, in the lunchroom and in conversations around the office with individual employees, about religion and matters of a religious nature. Some of what she said on the subject was undoubtedly said in response to questions from employees. However, I am satisfied that most of her comments to employees with respect to religion were made on her own initiative, and that she often steered conversations on other subjects around to the subject of religion.

Several witnesses testified to their annoyance with the oppressive nature of the lunchroom conversation when Mrs. Deschamps was there, as well as to the pervasiveness of religion in her conversation at other times during the working day. I am satisfied that there was indeed an oppressive air in the lunchroom until the Deschamps began to have lunch elsewhere, and that Mrs. Deschamps' tendency to hold forth on religion was probably a major cause of it. As far as employee annoyance with her behaviour elsewhere in the office was concerned, I am again satisfied that her frequent exhortations with respect to religion were partly to blame. However, both in the lunchroom and elsewhere, I doubt that religious pressure explained all of the tension. I expect that Mrs. Deschamps' rather obtrusive

personality, and her zealous approach to her duties as office manager, contributed significantly to it.

As for the content of what Mrs. Deschamps said about religion, the evidence from witnesses for both sides indicated that at least on occasion during the relevant 1982-83 period, she made explicitly derogatory remarks about Catholicism and aspects of Catholic doctrine, and that she made quite frequent efforts to persuade the complainants and other employees of the virtues of born-again Christianity. I am satisfied that such conduct, taken as a whole, went beyond the limits of normal, non-coercive employer-employee interchange.

-- Invitations from Mrs. Deschamps with respect to particular religious events

When the Deschamps began to say morning prayers in the boardroom, Mrs. Deschamps invited the firm's employees to attend. The invitation may have been repeated to some employees individually. Very few of them appear ever to have attended--perhaps none, other than Ms. Dufour once or twice. Mrs. Deschamps also gave employees occasional invitations of a more or less casual sort to attend services or other events at the Life Centre. Seldom did anyone take up those invitations, and no one appears to have interpreted them as imposing much pressure. The same is true of Mrs. Deschamps' occasional urging of employees to watch particular religious television programs.

In terms of specific consequences to employees from their disregarding of these various invitations, there appear to have been none, except perhaps some expressions of disappointment on Mrs. Deschamps' part.

-- Mrs. Deschamps' provision of bibles and other religious materials to employees

Most of the witnesses who were former employees of the Deschamps testified that at some point they received a bible from Mrs. Deschamps as a gift. She appears at times to have asked some employees whether they were reading their bibles, and to have expressed some disdain for bibles prepared by denominations of whose theology she disapproved. In a few cases, according to the evidence, she gave or loaned religious records or books to employees. The evidence also indicated that she would gladly engage in discussions or arguments about the bible with any employee whom she thought was interested.

Each of the particular items of conduct on Mrs. Deschamps' part mentioned in the preceding paragraph, and under the previous subheading, is insignificant in isolation. Taken together, though, they provide further evidence of the pervasiveness of a religious atmosphere in the office and of the subjection of employees to a stream of little pressures of a religious sort.

-- Mrs. Deschamps' request to employees to contribute money to Bill Frankerd's campaign for children in India

It is clear that at one point in the early spring of 1983, Mrs. Deschamps asked the firm's employees to make an immediate contribution of \$2.00, and further monthly contributions in that amount, to a program for children in India organized by Bill Frankerd at the Life Centre. However benevolent that program may have been, its religious dimension was obvious. All three complainants contributed at least the immediately requested \$2.00, as, apparently, did all other

employees present.

This is the most tangible single instance of the respondents' bringing direct pressure to bear on the complainants on a matter involving religion. I accept the testimony of Jacques Charron and Diane Demers that Mrs. Deschamps' solicitation made them feel compelled to contribute, not out of any sense of charity but because the request came from their employer. Mrs. Deschamps clearly ought to have realized that most of the employees would feel such pressure. I expect that she did in fact realize it from the outset, but if she did not, Mr. Charron's loud and disgruntled comment on the way out of the meeting must have gotten through to her.

The evidence, however, points the other way as to the nature of Suzanne Dufour's reponse to Mrs. Deschamps' solicitation. Ms. Dufour gave not only the \$2.00 that Mrs. Deschamps asked for, but also another sum of about \$225.00 to sponsor a child on her own. I doubt that either of those donations was the result of any fear on her part of adverse employment consequences. I think both were voluntary and not a result of job-related pressure.

COMMENTS OR CONDUCT CLEARLY HAVING NOTHING TO DO WITH CREED

The evidence discloses a few things said or done by the Deschamps which caused understandable annoyance or distress to one or other of the complainants but which were quite clearly unrelated to religion and thus could not form part of a course of comment or conduct relating to creed. Those items include the following:

- The denial of Ms. Dufour's request for time off for thyroid surgery in March 1983. This denial, I think, was based on the fact that the request came during the tax season, and that Mrs. Deschamps thought she could not spare Ms. Dufour's services.

- The withholding of certain sums of money from Ms. Dufour after the termination of her employment.

- The reprimand or reprimands given to Mr. Charron about parking.

- The rejection of Mr. Charron's request to help him get a mortgage by overstating his salary to his bank.

- The requests or instructions to Mr. Charron to do certain personal errands or chores for the Deschamps -- tasks which he appears understandably to have resented.

- The sharply negative overall assessment of Ms. Demers' job performance which was communicated to her in October 1983, and the more tentative but still rather unfavourable assessment which may or may not have been communicated to her in November 1982. Both of those assessments drew mainly on Charles Landreville's input, and I think their negative tone was due wholly to the perception that Ms. Demers was not learning quickly enough and was not doing her job well enough.

- The reprimands to Ms. Demers about coffee breaks and personal telephone calls.

- The withholding of small sums of money allegedly due to Ms. Demers after her resignation.

COMMENTS OR CONDUCT BASED ON MRS. DESCHAMPS' PARTICULAR VIEW OF MORALITY

I have reviewed those aspects of the respondents' behaviour which formed the basis for the complaints of religious harassment and which in my opinion were either clearly linked to religion or clearly not linked to religion. There is, in addition, an intermediate category which has given me considerable difficulty. That category consists of comments or conduct on the part of Mrs. Deschamps which were based on her view of morality -- a view which appears to have been so dependent on her particular religious outlook as to be essentially indistinguishable from it.

The link between religion as a set of beliefs about a supreme being and religion as a guide to behaviour is expressed in the following definition of "religion" in the Shorter Oxford English Dictionary.

Recognition on the part of man of some higher unseen power as having control of his destiny, and as being entitled to obedience, reverence, and worship; the general mental and moral attitude resulting from this belief, with reference to its effect upon the individual or the community; personal or general acceptance of this feeling as a standard of spiritual and practical life.

The evidence shows that on several occasions, when Mrs. Deschamps was of the view that an employee had done something of doubtful morality, either at work or elsewhere, she scolded him or her, sometimes severely. Thus, in Mr. Charron's case, Mrs. Deschamps appears to have made certain demeaning remarks to him, at the time of his dismissal or soon afterward, that had little if anything to do with his employment. One involved his treatment of his family, and another was to the effect that he had great need of the bible that she was handing to him as a parting gift.

A third such instance, probably more hurtful yet to Mr. Charron, was the coffee creamer incident, when Mrs. Deschamps appears, through her words and actions, to have made a patently unfounded imputation of petty thievery against him, and to have reprimanded him in explicitly religious language. I find it hard to characterize such behaviour on Mrs. Deschamps' part as wholly distinct from the overall course of religious comment and conduct which she brought to bear on the firm's employees, particularly in light of the fact that at least some of what she said to Mr. Charron on these occasions was put in religious terms.

However, as I have noted above, I do not think that another impugned action by the Deschamps with respect to Mr. Charron--their refusal of his request to slightly overstate his salary for the purpose of a mortgage application -- should be considered to have been based on religion. Most people in our society, whatever their religious outlook, would rightly consider such a request to be an impropriety, even if a fairly minor one. The evidence does not satisfy me that the Deschamps' response to it can fairly be characterized as religiously based.

Similarly, I do not include in the category of essentially religious comment or conduct the reaction of Mrs. Deschamps to Ms. Demers' receipt of flowers from an employee of a company whose books she was auditing. However overblown and unfair that reaction may have been, I am prepared to accept that it was based wholly on a legitimate concern on Mrs. Deschamps' part to avoid any danger of a conflict of interest.

However, Mrs. Deschamps' hectoring of Ms. Demers on matters

of personal conduct appears to have taken on a plainly religious character. The most pointed example is provided by the ski chalet incident, on which I accept Ms. Demers' testimony as partially corroborated by Gilles Bastien. What Mrs. Deschamps said to Ms. Demers on that occasion appears to have had no discernible professional rationale, and to have been at least as much in the nature of religious sermonizing as in the nature of a lecture on personal morality. The same is true of what the evidence shows to have been Mrs. Deschamps' quite frequent comments to Ms. Demers about how she dressed and about the inappropriateness of certain of her social activities, although I think Ms. Demers' account of those comments was somewhat exaggerated.

In sum, although some of the critical personal remarks which Mrs. Deschamps made to Mr. Charron and Ms. Demers were couched at least in part in moral terms, I would conclude that several of them were sufficiently religious in thrust and content to be part of a course of comment and conduct based on religion -- and from the nature and tone of those remarks, no reasonable person could fail to realize that they were unwelcome. It is true that none of them standing alone would be enough to constitute religious harassment or religious discrimination, nor are they essential to my finding that there was religious harassment of Mr. Charron and Ms. Demers. Taken together, however, they add to the seriousness of that harassment. It would frustrate the protective purpose of s. 4(2) of the Human Rights Code, 1981, to allow an employer to press what are really religious views on his or her employees

under the pretext that it is only morality and not religion that is involved.

DID THE RESPONDENTS KNOW, OR SHOULD THEY REASONABLY HAVE KNOWN, THAT THEIR COURSE OF COMMENT OR CONDUCT WITH RESPECT TO CREED WAS UNWELCOME?

Section 9(f) of the Code provides that a course of vexatious comment or conduct can only constitute harassment for the purposes of the Code if it "is known or ought reasonably to be known to be unwelcome".

In deciding whether, in the case at hand, the respondents had or ought to have had such knowledge, some important considerations must be kept in mind. One is the nature of the employer-employee relationship. The economic power of most employers over most employees often makes an employee reluctant to tell an employer or supervisor outright that certain comments or conduct are not appreciated. Ms. Demers made exactly that point in a passage in her testimony which is quoted above. Every employee cannot be expected to be as blunt as Carolle Richer claimed to have been in her employment interview with Mrs. Deschamps, when she responded to the information that the Deschamps were born-again Christians with the retort, "That's OK, as long as you don't try to convert me".

As Professor Anne Bayefsky said in a sexual harassment decision, Cuff v. Gypsy Restaurant [1987] 87 CLLC para. 17,015, at p. 16,178, "attempts to let the respondent know that his behaviour was unwelcome, albeit perhaps indirect or weak, will go towards establishing whether or not the respondent ought to have

known his behaviour was unwelcome". The legal burden of proving reasonable knowledge of unwelcomeness is on the complainant, but if a complainant's co-workers have said or done anything to give the employer reasonably clear clues about the unwelcomeness of his or her behaviour, that ought to be enough to avert the employer and to shift to him or her an evidentiary burden of showing that the complainant in effect invited such behaviour.

In addition, as Professor Bayefsky also said (supra, at p. 16,178),

the 'ought to have known' alternative recognizes that the responsibility for appreciating the offensiveness of certain behaviour does not rest entirely with the complainant....

In general, the legislative enunciation of the right to be free from sexual harassment and advances indicates a public awareness of the unacceptable nature of this behaviour and carries with it an expectation that this understanding is shared by the members of the community.

Just as every employer is deemed to know, for example, that the law requires certain contributions to the Canada Pension Plan or prohibits interference with an employee's trade union activities, so every employer in Ontario is deemed to know that religious harassment of employees is illegal. That does not lift from a complainant's shoulders the legal burden of proving that the particular employer knew or ought to have known that a particular course of comment or conduct with respect to religion was in fact resented by that complainant, but it surely affects the weight of that burden.

In Mr. Charron's case, the evidence satisfies me that he did enough to ensure that Mrs. Deschamps ought to have known that he did not welcome her religious comments and conduct, and I expect

he did enough that she actually knew it. Twice, it appears, he made loud remarks of disapproval that Mrs. Deschamps probably heard. He claimed as well that in the course of the coffee creamer incident, he told her that he considered born-again Pentecostals to be brainwashers. I doubt that he was in fact quite so blunt, but I accept that he was blunt enough to make her at least roughly aware of his feelings. The elements of religious harassment under s. 4(2) of the Code have in my view all been established with respect to Mr. Charron.

Ms. Demers did not claim to have said anything directly to Mrs. Deschamps, or within earshot of her, to communicate her resentment of Mrs. Deschamps' religious overtures and exhortations. However, there is no evidence that she did anything to lead Mrs. Deschamps to believe that she welcomed or willingly tolerated such conduct. Given that much of Mrs. Deschamps' religiously-oriented behaviour toward Ms. Demers consisted of repeated criticism of various aspects of her personal life, the only conclusion I can come to is that any reasonable person ought to have realized that such comments were unwelcome to her. In Ms. Demers' case, then, as in Mr. Charron's, all of the elements of religious harassment have been established.

Ms. Dufour's relationship with Mrs. Deschamps appears to have been quite different from that of the other two complainants. Ms. Dufour worked much more closely than either of them with Mrs. Deschamps, and, as she had lived with the Deschamps family for several months, there was a background of

extensive personal contact between her and Mrs. Deschamps that was lacking in the case of Mr. Charron and Ms. Demers. It is very doubtful, on the evidence, that Mrs. Deschamps' religious comments and conduct were actually unwelcome to Ms. Dufour until perhaps March 1983. After that point, I accept that they were in fact unwelcome, but I have found it difficult to decide whether Mrs. Deschamps realized or ought to have realized that fact.

Where an employer and employee have had a close relationship involving a lot of discussion of religion and other highly personal matters, and the employee wants such discussion to stop, it would be unfair to hold the employer guilty of religious harassment unless the employee has somehow communicated that fact to the employer. On the evidence before me, I am not satisfied that Ms. Dufour did enough to make Mrs. Deschamps reasonably aware that she wanted no more of the sort of conversation about religion that had gone on between them.

A few facts do point the other way, particularly Mrs. Deschamps' reference to a Bill Prankerd miracle service in response to Ms. Dufour's request for time off for a thyroid operation -- a comment which must have been patently unwelcome. On balance, though, I am not convinced that Mrs. Deschamps in fact knew, or that in all of the circumstances she ought reasonably to have known, that her overall course of behaviour with respect to religion had become unwelcome to Ms. Dufour. Therefore, I cannot hold the respondents to have been in breach of s. 4(2) of the Code with respect to Ms. Dufour.

D. THE ALLEGATIONS OF RELIGIOUS DISCRIMINATION

The Commission argued that the respondents' treatment of the complainants constituted not only harassment on the ground of creed, contrary to s. 4(2) of the Code, but also discrimination on that ground, in contravention of s. 4(1). The respondents, the argument runs, put repeated religious pressures on the complainants which were not put on other employees whose religious beliefs and practices were closer to those of the respondents, and those pressures resulted in a poisoned work environment for the complainants and in the loss of their jobs.

To subject an employee repeatedly to unwelcome actions or comments in respect of a prohibited ground is to treat that employee less favourably than other employees. The conclusion is inescapable, I think, that an employer who engages in or tolerates such treatment of an employee is not only harassing the employee but is also denying him or her "equal treatment with respect to employment without discrimination because of" the prohibited ground in question.

The view that harassment always involves discrimination is consistent with the purposes of human rights legislation, and has facilitated protection against harassment in jurisdictions where the legislation expressly prohibits discrimination but does not mention harassment. This is well explained by Professor Peter Cumming in Boehm v. National System of Baking Ltd. (1987) 8 CHRR D/4110, at pp. D/4118-21. However, since the enactment of the Ontario Human Rights Code, 1981, it is no longer necessary in Ontario to consider whether any particular instance of harassment

on a prohibited ground also constitutes discrimination on that ground, because harassment is now a distinct statutory offence with remedies at least as broad as those for discrimination. I need not consider the Commission's allegations that the respondents were guilty of the "poisoned work environment" type of discrimination, because I have already dealt fully with those allegations in considering whether they were guilty of harassment, and the remedies which I will order for harassment are the same remedies which I would give for that type of discrimination.

However, the Commission alleges that the respondents discriminated against the complainants not only by poisoning their work environment, but also by dismissing them from their jobs (or, in Ms. Demers' case, by threatening dismissal in such a way as to induce her to resign), again on the prohibited ground of religion. This type of discrimination is different from harassment, because it does not require proof of a course of conduct based on the prohibited ground, but only proof of a substantial instance of unfavourable treatment on that ground.

Did religion play any part in the dismissal or threatened dismissal of the complainants?

Before considering the evidence relating directly to the termination of each of the complainants, I will deal with some similar fact evidence which each side adduced in an attempt to prove that the respondents did or did not have a propensity to get rid of employees who were not born-again Christians. The evidence shows that Mrs. Deschamps made remarks to a number of witnesses, including Jacques Alexanian and Lynn Donaghy, to the

effect that she hoped or dreamed of having a staff that was, in her terms, Christian. No one testified that Mrs. Deschamps expressed that wish in very strong terms, or that she asserted any intention of actually implementing it. However, the fact that she expressed it at all is very disturbing. It indicates some inclination to discriminate, and it stiffens the evidentiary burden cast on the respondents by the rest of the evidence to show that they had nothing but legitimate reasons for dismissing or inducing the resignation of each of the complainants.

The other action by Mrs. Deschamps which was alleged to show a propensity to base staffing decisions on religious factors was her replacing of Ann St.-Denis with Lynn Constantineau. Before I could properly treat that action as similar fact evidence of such a propensity, I would have to be reasonably satisfied that creed was a causal factor.

Ms. Constantineau was a member of the Deschamps' church, and would probably never have come to their attention as a prospective employee had Mrs. Deschamps not gotten to know her at the church. However, the evidence satisfies me that Mrs. Deschamps had a convincing, legitimate reason for preferring Ms. Constantineau to Ms. St.-Denis as full-time secretary-receptionist -- the belief that Ms. St.-Denis's personality was not suited to the duties of a receptionist and that Ms. Constantineau's was. As I have said above, that belief was supported by my own impressions of Ms. St.-Denis and Ms. Constantineau as witnesses.

The respondents, in turn, pointed to other similar fact

evidence as tending to disprove any propensity on their part to seek out what Mrs. Deschamps considered to be Christian employees, or to get rid of others. Thus, Mrs. Deschamps testified, born-again Christians made up only a small proportion (less than 10%) of the people who had been employed by the firm between its inception in 1976 and the date of the hearing, and Carolle Richer, the firm's longest-service employee, was a non-practicing Catholic. These bits of evidence are of some weight, but not much.

Ms. Richer's testimony contained other items of similar fact evidence. According to Ms. Richer, Mrs. Deschamps showed no negative reaction to her disclosure, in April 1984, that she was living with a man to whom she was not married, nor to her statement, after her visit to the Life Centre, that she was "not ready" for any further involvement in that organization. The value of these items is limited not only by what impressed me as the less than wholly spontaneous character of Ms. Richer's evidence, but also by the fact that the conversations in question appear to have taken place after the complaints now before me had been brought and had been discussed with the Deschamps by representatives of the Commission.

I would conclude that neither side's similar fact evidence is of much help in deciding whether religion played any role in the termination of the complainants' employment. What does the direct evidence indicate on that question?

In Suzanne Dufour's case, the issue is complicated somewhat by the fact that she thought she had resigned when she left the

office on September 29, 1983 without either asking or being asked to return, whereas the respondents did not take her to have resigned, and proceeded instead to dismiss her about three weeks later. Whether she resigned or was dismissed is not particularly relevant to her complaint, which in effect alleges that however her employment was in fact terminated, the action of the respondents in allowing her part-time arrangement to grind to a halt was motivated at least in part by considerations of religion.

Ms. Dufour testified that Mrs. Deschamps' frequent comments with respect to religion, and general coldness toward her from March 1983, finally made the office atmosphere intolerable and led her in June of that year to give three months' notice of her resignation as a full-time employee and to ask for part-time employment from the end of the notice period in September. A serious problem with Ms. Dufour's evidence lies in the fact that although she decided in June that she no longer wanted to work full-time for the Deschamps, she found the place tolerable enough that she was prepared to give three months' notice, to offer to stay on after that in a part-time capacity, and to continue working full time for the entire notice period.

As between Ms. Dufour's testimony that it was religious pressure from Mrs. Deschamps that drove her out and the Deschamps' testimony that it was their impatience with her attitude and behaviour that was entirely responsible for their admitted desire to see her leave, I find the latter to be somewhat more credible. I have already said that I have

difficulty with Ms. Dufour's evidence on the religious harassment to which she was allegedly subjected by Mrs. Deschamps in her last few months on the job. That difficulty also extends to her evidence on the related question of why the Deschamps either dismissed her or encouraged her to leave. If this were an action for damages for wrongful dismissal, the Deschamps might be hard pressed, on the evidence I have seen, to show that they had adequate cause to dismiss Ms. Dufour, but that is of course not the issue before me. What is in issue is whether religious discrimination played a part in the treatment of Ms. Dufour that led to her termination. I am satisfied, on balance, that it did not.

With respect to Jacques Charron and Diane Demers, I am again quite satisfied that the actions of the Deschamps in dismissing Mr. Charron, and in threatening Ms. Demers with dismissal, were motivated entirely by the Deschamps' belief that neither employee was doing his or her job adequately nor was showing any real prospect of improvement. As we have seen above, the perceived shortcomings in Ms. Demers' performance were set out in two assessments by Charles Landreville, and the existence of a belief on the part of the respondents that Mr. Charron was not working fast enough was quite convincingly documented by material from the respondents' files. I do not think the Deschamps took religious factors into consideration in deciding whether or not to retain either of those complainants as an employee. With respect to both Mr. Charron and Ms. Demers, the existence of adequate cause for dismissal pursuant to the common law of

employment may be doubtful on the evidence before me, but again that is not the issue in these proceedings.

E. THE RESPONDENTS' CLAIM UNDER SECTION 40(6)

As I am dismissing Suzanne Dufour's complaint of religious harassment, and the complaints of religious discrimination brought by all three complainants, I have to consider the submission by counsel for the respondents that the complainants' allegations were not only unfounded, but were so clearly unfounded as to entitle the respondents to a remedy under s. 40(6) of the Ontario Human Rights Code, 1981, which provides as follows:

40(6) Where, upon dismissing a complaint, the board of inquiry finds that,

(a) the complaint was trivial, frivolous, vexatious or made in bad faith; or

(b) in the particular circumstances undue hardship was caused to the person complained against,

the board of inquiry may order the Commission to pay to the person complained against such costs as are fixed by the board.

In support of this claim to recourse under s. 40(6), counsel for the respondents cited Professor H.A. Hubbard's decision in Pham v. Beach Industries Ltd. [1987] 87 CLLC para. 17,016. In that case, what the board of inquiry found to have been improper actions on the part of the Commission consisted largely of the investigating agent's pursuit of a complaint without taking account of the provisions of an applicable collective agreement, and without giving enough attention to efforts by the employer's counsel to explain how that collective agreement undermined the complaint.

In the case before me, the evidence shows no failure of that sort, or any other negligence or impropriety on the part of the Commission or its agents in the investigation or pursuit of any of these complaints. I have had the opportunity, which the representatives of the Commission did not have, to hear days of testimony under oath and to observe the complainants, the respondents and other witnesses under searching cross-examination by legal counsel. Even with all of that help, I have found it difficult to decide which of the complaints were justified and which were not. I do not see how any of the adjectives in s. 40(6)(a) can be applied to any of the complaints in these proceedings, including the complaints which I am dismissing.

Professor Hubbard's decision in the Beach Industries case was obviously based on the very unusual facts in that case. It is very important that that decision not be interpreted in such a way as to dissuade the Commission and its agents from vigorously applying the provisions of the Code.

The complaints before me were all filed after the complainants had left the respondent's employment, but at least one of the complainants appears to have gone to the Commission's offices to discuss the possibility of a complaint while still working for the respondents -- a fact which was referred to by counsel for the respondents during cross-examination and in argument. It should be emphasized that there is no need for an employee to resign or be dismissed in order to pursue his or her rights under the Code against an employer. An employee is

perfectly entitled to bring a proceeding under the Code during the currency of the employment relationship, and s. 7 explicitly prohibits reprisals or threats of reprisals, against employees or anyone else, for instituting or participating in such proceedings.

IV. REMEDIES

When a respondent has breached a protective provision of the Human Rights Code, 1981, boards of inquiry have commonly ordered the posting of the relevant provisions of the Code on the respondent's premises, to deter future violations. Such an order is appropriate in this case. Because of the length of the Code, posting it in full would probably be less effective than posting only those parts which set out its general principles and the basic rights which it seeks to protect. Accordingly, I will direct that copies of the Preamble and Part I of the Code, in a format provided by the Commission, be posted prominently by the respondents in their offices.

As for damages, I have found the respondents to have breached the Code by harassing Jacques Charron and Diane Demers with respect to creed, but I do not think either Mr. Charron or Ms. Demers would have kept his or her job with the respondents for long, even in the absence of any such breach. The Deschamps' perception of the limited competence or limited suitability of Mr. Charron and Ms. Demers for the work they were doing would in

my view have almost certainly led to their dismissal in any event at about the time when their employment in fact ended. Therefore, I do not think either of them is entitled to compensation for loss of employment.

However, Mr. Charron and Ms. Demers are in my view entitled to compensation, under s. 40(1)(b) of the Code, for the mental anguish they suffered from the religious harassment to which they were subjected by the respondents. What amount of damages is appropriate for that mental anguish?

In Mr. Charron's case, his testimony (unsupported by other evidence, but not seriously challenged) is that he was psychologically unfit to do other than lower-level, lower-paid work for at least three years after being dismissed by the Deschamps. His discharge appears to have come unexpectedly, without any clear warning that he would lose his job if his performance did not improve. It is likely that his psychological problems were contributed to not only by the suddenness of his dismissal, which cannot be said to be a breach of the Code, but also by the gratuitous, religiously-oriented remarks which Mrs. Deschamps made to him in the process of dismissing him -- remarks which were part of a course of comment and conduct related to creed and thus part of the respondents' breach of the Code. I am satisfied that Mr. Charron also suffered some anguish from those aspects of that course of comment and conduct to which he was subjected in the months before his dismissal.

I do not want to overstate the degree to which the respondents' comments and conduct with respect to creed were

responsible for the period of severe distress which Mr. Charron appears to have gone through toward the end of his period of employment with the respondents and for quite some time afterwards. My impression, on the evidence, is that most of that distress was probably caused by Mr. Charron's failure to meet the Deschamps' expectations concerning speed and quality of work. Unfortunately, the Deschamps appear to have enforced those expectations brusquely and without bothering to provide the clear warnings and other measures of progressive discipline that would have been forthcoming from a more enlightened and considerate employer. Those failings on the part of the respondents may or may not have amounted to a breach of the law of wrongful dismissal, but they are not a breach of the Human Rights Code.

That portion of Mr. Charron's mental anguish that was attributable to religious harassment by the respondents would in my view justify an award of \$1,000.00 in damages.

In Ms. Demers' case, there is some concrete evidence that she had certain short-term health problems prior to and at the time of her dismissal, and I am satisfied that Mrs. Deschamps' course of comment and conduct with respect to religion was partly to blame for those problems. I think the impact of such behaviour by Mrs. Deschamps during the employment relationship as a whole was greater in Ms. Demers' case than in Mr. Charron's, but Ms. Demers' termination does not appear to have been accompanied by the sort of religiously-based abuse from Mrs. Deschamps that accompanied Mr. Charron's dismissal. For a number of possible reasons which I do not have enough evidence to

assess, neither Ms. Demers' psychological state nor her short-term capacity to resume work in her field appears to have been as adversely affected as Mr. Charron's by what happened at the Deschamps'. As with Mr. Charron, I believe that a substantial part of the distress which Ms. Demers did suffer was due to her failure to meet the Deschamps' expectations with respect to job performance. The elements of progressive discipline appear to have been largely lacking in Ms. Demers' case, as in Mr. Charron's, but again that is not a breach of the Code.

On the whole, I would conclude that Ms. Demers suffered roughly the same degree of mental anguish from the respondents' breach of the Code as Mr. Charron, and is entitled to the same amount of damages -- \$1,000.00.

Counsel for the Commission requested that interest be awarded on any damages, and I can see no reason why that should not be done. No evidence was led as to an appropriate rate of interest. However, in light common knowledge of the level of interest rates since 1983, a rate of 10% would appear proper.

I expect that these proceedings have made the respondents quite well aware of their obligations under the Code, and I saw no sign that they were particularly likely to commit further violations. Accordingly, I do not think further remedies are warranted.

V. ORDER

Pursuant to my finding that the respondents breached ss. 4(2) and 8 of the Human Rights Code, 1981, with respect to Jacques Charron and Diane Demers, the respondents are hereby ordered to do the following:

1. To post prominently in the reception area of the offices of J. Roger Deschamps Comptable Agréé, and in the lunchroom or equivalent area of those offices, copies of the Preamble and Part I of the Human Rights Code, 1981, as provided to the respondents by the Ontario Human Rights Commission;

2. To pay to Jacques Charron and Diane Demers, as damages for mental anguish caused by those breaches, the sum of \$1,000.00 each, plus interest at the rate of 10% per year from the date of the service of their complaints upon the respondents to the date of this decision.

I will remain seized of this matter until these directions have been complied with.

DATED at Kingston, Ontario, the 15th day of February, 1989.



Bernard Adell
Board of Inquiry

